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DEPARTMENT OF AGRICULTURE

Animal and Plant Health Inspection Service

7 CFR Part 301

[Docket No. APHIS-2019-0035]

RIN 0579-AE53

Domestic Quarantine Regulations; Quarantined Areas and Regulated Articles

AGENCY: Animal and Plant Health Inspection Service, USDA.

ACTION: Proposed rule.

SUMMARY: We are proposing to revise the regulations that govern domestic quarantines for various plant pests by removing lists of quarantined areas and regulated articles from the regulations in order to maintain these lists on web pages maintained by the Agency. We are proposing these amendments because they would allow the Agency to be more responsive in updating the lists. These changes would allow us to use a notice-based, streamlined approach to update the lists while continuing to protect plant health.

DATES: We will consider all comments that we receive on or before **[INSERT DATE 60 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: You may submit comments by either of the following methods:

- Federal eRulemaking Portal: Go to www.regulations.gov. Enter APHIS-2019-0035 in the Search field. Select the Documents tab, then select the Comment button in the list of documents.
- Postal Mail/Commercial Delivery: Send your comment to Docket No. APHIS-2019-0035, Regulatory Analysis and Development, PPD, APHIS, Station 3A-03.8, 4700 River Road Unit 118, Riverdale, MD 20737-1238.

The proposed rule, supporting documents, and any comments we receive on this docket may be viewed at www.regulations.gov or in our reading room, which is located in room 1620 of the USDA South Building, 14th Street and Independence Avenue SW., Washington, DC.

Normal reading room hours are 8 a.m. to 4:30 p.m., Monday through Friday, except holidays.

To be sure someone is there to help you, please call (202) 799-7039 before coming.

FOR FURTHER INFORMATION CONTACT: Ms. Lynn Evans-Goldner, National Policy Manager, Office of the Deputy Administrator, PPQ, APHIS, 4700 River Road Unit 137, Riverdale, MD 20737; (301) 851-2286; lynn.evans-goldner@usda.gov.

SUPPLEMENTARY INFORMATION:

Background

Under the Plant Protection Act (PPA, 7 U.S.C 7701 *et seq.*), the Secretary of Agriculture is authorized to restrict the interstate movement of plants, plants products, and other articles to prevent the dissemination of plant pests and noxious weeds within the United States, and to issue regulations and orders regarding such restrictions. The Secretary has delegated this authority to the Animal and Plant Health Inspection Service (APHIS).

Pursuant to the PPA, APHIS has issued the regulations in 7 CFR part 301, "Domestic Quarantine Notices," (referred to below as the regulations), in order to prevent the interstate spread of plant pests within the United States.

Part 301 is currently divided into 20 subparts. The first two subparts are "Subpart A—Preemption and Special Need Requests" (§§ 301.1 through 301.1-3) and "Subpart B—Imported Plants and Plant Parts" (§§ 301.10 and 301.11).

The remaining 18 subparts in the regulations each address a specific plant pest: "Subpart C—Fruit Flies" (§§ 301.32 through 301.32-10), "Subpart D—Black Stem Rust" (§§ 301.38 through 301.38-8), "Subpart E—Gypsy Moth" (§§ 301.45 through 301.45-12), "Subpart F—Japanese Beetle" (§§ 301.48 through 301.48-8), "Subpart H—Asian Longhorned Beetle" (§§ 301.51-1 through 301.51-9), "Subpart I—Pink Bollworm" (§§ 301.52 through 301.52-10),

“Subpart K—South American Cactus Moth (§§ 301.55 through 301.55-9), “Subpart L—Plum Pox” (§§ 301.74 through 301.74-5), “Subpart M—Citrus Canker (§§ 301.75-1 through 301.75-17), “Subpart N—Citrus Greening and Asian Citrus Psyllid” (§§ 301.76 through 301.76-11), “Subpart O—Witchweed” (§§ 301.80 through 301.80-10), “Subpart P—Imported Fire Ant” (§§ 301.81 through 301.81-11), “Subpart R—Golden Nematode” (§§ 301.85 through 301.85-10), “Subpart S—Pale Cyst Nematode (§§ 301.86 through 301.86-9), “Subpart T—Sugarcane Diseases” (§§ 301.87 through 301.87-10), “Subpart U—Karnal Bunt” (§§ 301.89-1 through 301.89-16), “Subpart W—European Larch Canker (§§ 301.91 through 301.91-9), and “Subpart X—*Phytophthora Ramorum* (§§ 301.92 through 301.92-12).”¹

While there are differences in structure and nomenclature among the various subparts, which we discuss later in this document, the subparts tend to share a basic regulatory approach in common: Certain areas of the United States are designated as quarantined² areas for a plant pest, certain articles that may present a risk of spread of the plant pest in question are designated as regulated articles, and conditions are placed on the interstate movement of regulated articles from quarantined areas.

With rare exceptions, the subparts list quarantined areas within the regulations themselves. Because these lists are contained in the regulations, APHIS must issue rules in order to update the lists. However, the rulemaking process sometimes has difficulty keeping pace with the expansion and contraction of quarantined areas for plant pests.

Accordingly, to ensure the domestic quarantine programs continue to serve the function for which they were established, APHIS issues Federal Orders in order to designate such areas. During periods of rapid spread of a plant pest, this can result in issuance of a significant number

¹ Within part 301, subparts G, J, Q, and V are currently removed and reserved.

² Certain subparts refer to quarantined areas as “regulated areas” or “infested areas.” Since the term “quarantined area” is the most common in the regulations, and the terms all share a common meaning, we use “quarantined area” in this preamble as a general term of art inclusive of those other terms, and use the other terms only when context dictates they should be used.

of Federal Orders. For example, in a single fiscal year (FY 2016), APHIS had to issue 16 Federal Orders designating additional quarantine areas for a single plant pest.

The subparts also list regulated articles in the regulations themselves. While the subparts do allow for immediate designation of an article as a regulated article based on an APHIS determination, usually by an inspector, that the particular article presents a risk of spread of the plant pest and following official notification to the owner of the particular article, these provisions are intended for immediate designation of specific articles, rather than as generally applicable mechanisms to designate additional regulated articles. Again, such generally applicable revisions to the regulations necessitate rulemaking, and, when rules cannot be issued in a sufficient expeditious manner, APHIS issues Federal Orders to serve the programs' needs.

While APHIS ultimately either rescinds Federal Orders or codifies them through rulemaking, in the intervening time period before such codification occurs, the regulations do not align with the actual lists of quarantined areas and regulated articles for various domestic quarantine programs for plant pests.

To address this issue, in this proposed rule, we are proposing to revise the regulations to establish processes wherein lists of quarantined areas and regulated articles would be moved from the regulations to websites maintained by APHIS' Plant Protection and Quarantine (PPQ) program unit for various plant pests. We would issue yearly notices in the *Federal Register* in order to communicate changes to the lists of quarantined areas and would issue notices as needed in order to make changes to the lists of regulated articles.

Below, we discuss the proposed process that we would use for communicating changes to quarantined areas. In the course of this discussion, we also address how we would account for suppressive and generally infested areas, which are used in certain subparts within the regulations as subsets of quarantined areas.

We discuss the process that we would use in order to make changes to the lists of regulated articles. In the course of this discussion, we discuss how we would account for

sections in certain subparts that exempt articles that would otherwise be regulated from regulation regarding their interstate movement, if the articles are produced, processed, cleaned, or handled in a manner that addresses plant pest risk.

We proceed sequentially through the subparts in the regulations in order to discuss instances in which we deviate from these overarching approaches, as well as to discuss minor editorial revisions that we are making to some of the subparts in order to promote clarity and consistency.

Finally, we provide public notification that a number of Federal Orders would effectively be codified if we were to finalize this proposed rule.

Proposed Process for Quarantined Areas

As we mentioned earlier in this document, the subparts in the regulations generally list quarantined areas within the regulations themselves. There are, however, three subparts that do not do so: “Subpart C—Fruit Flies,” “Subpart N—Citrus Greening and Asian Citrus Psyllid,” and “Subpart S—Pale Cyst Nematode.” In these subparts, the criteria for designation of a quarantined area are listed in the regulations, but the actual description listing all the quarantined areas is not. Rather, the description is maintained on the internet at the PPQ website for the relevant plant pest, and is annotated to indicate the last time it was changed. When the quarantined areas for the program change, the description is updated and annotated, and APHIS publishes a notice in the *Federal Register* informing the public that the change has occurred and describing the change to the quarantined area.

We are proposing to broaden the use of this approach from those three subparts to an overarching approach for part 301. In so doing, we would also make a slight revision to the content of the *Federal Register* notices required by the regulations. Whereas the regulations are currently written in a manner that makes the notices pest-specific, we would instead issue notices on a yearly basis informing the public of all revisions to quarantined areas that had occurred since the last notice was published.

Accordingly, under the proposed approach, whenever an area met criteria for designation as a quarantined area, APHIS would issue a Federal Order designating the area as such, and would update the list of quarantined areas for the relevant plant pest program, and annotate the list with the date of the update. Once a year, APHIS would issue a single notice in the *Federal Register* informing the public of all updates to the lists of quarantined areas that had occurred since the previous notice.

Because, under the proposed approach, lists of quarantined areas would no longer be found in the regulations, we are proposing to revise references to such lists throughout part 301.

Finally, in “Subpart I—Pink Bollworm,” “Subpart O—Witchweed,” and “Subpart R—Golden Nematode,” the regulations further divide quarantined areas into suppressive and generally infested areas. Suppressive areas are areas in which eradication of infestation is undertaken as an objective pursuant to the processes set forth in the subparts, while generally infested areas are any part of a quarantined area that is not a suppressive area.

Under our proposed framework, the lists of quarantined areas for the pink bollworm, witchweed, and golden nematode program that PPQ maintains on the internet would be annotated to indicate suppressive and generally infested areas therein. When a new quarantined area is added for these programs through issuance of a Federal Order, the Federal Order would indicate the generally infested and suppressive areas within the new quarantined area. APHIS would then update the relevant list, including any suppressive and generally infested areas, on the internet accordingly, and our yearly *Federal Register* notice would indicate this update. The *Federal Register* notice would also be used to indicate changes to the geographical boundaries of the suppressive areas or generally infested areas that had occurred since the last update (for example, if APHIS were to pursue eradication in a generally infested area, or to abandon eradication efforts in a suppressive area). Following issuance of the *Federal Register* notice, APHIS would archive Federal Orders covered by the *Federal Register* notice; this archiving

would not impact the lists themselves but would ensure that webpages devoted to the Federal Orders issued for a particular program did not become unwieldy over time.

Proposed Process for Regulated Articles

As we mentioned previously, currently, the subparts in part 301 list regulated articles in the regulations themselves, and provide for immediate designation of a particular article as a regulated article upon an APHIS determination, usually by an inspector, that the article presents a risk of spreading a particular plant pest.

Under our proposed process, the lists of regulated articles for a particular subpart would be moved from the regulations to the relevant PPQ website for the plant pest in question. The regulations would state the criteria for designating additional regulated articles for the pest, which would be identical to the criteria currently stated in the regulations for immediate designation of an article. For example, the regulations currently allow an inspector to designate a specific article as a regulated article for witchweed, if he or she determined it to “present a hazard of spread of witchweed.” In our proposed rule, the regulations for witchweed would use these same criteria (“present a hazard of spread of witchweed”) as the basis for designating additional classes of regulated articles.

If APHIS determines that the criteria for designation of a regulated article are met for a particular plant pest for which we have regulations in part 301, we would publish a notice in the *Federal Register* proposing to add the article to the list of regulated articles for that plant pest. The notice would also provide the basis for this determination, and would request public comment.³

³ In instances in which there is an immediate or emergency need to designate a regulated article for a particular plant pest, such as when an article previously considered not to be a host for a particular pest is determined during an inspection to be infested with the pest, APHIS may designate the article as a regulated article through a Federal Order and update the relevant list of regulated articles accordingly. In such instances, as soon as it is feasible, APHIS would issue a notice in the *Federal Register* as discussed above.

If no comments are received on the notice, or if the comments do not change the Administrator or the Deputy Administrator's determination, APHIS will publish a second notice in the *Federal Register* designating the article as a regulated article for that plant pest.

Because, under the proposed approach, lists of regulated articles would no longer be found in the regulations, we are proposing to revise references to such lists throughout part 301.

This change would apply to all subparts in part 301 except "Subpart S—Pale Cyst Nematode." The pale cyst nematode program has determined that, for program-specific needs and ease of reference for stakeholders, it would be appropriate not to weblist regulated articles. We would continue to communicate any changes to the list of regulated articles for pale cyst nematode via the current rulemaking process.

Finally, "Subpart O—Witchweed" and "Subpart R—Golden Nematode" currently exempt articles that would otherwise be regulated from regulation regarding their interstate movement, if the articles are produced, processed, cleaned, or handled in a manner that addresses plant pest risk. The conditions under which a specific regulated article is exempted are listed in the regulations. Because we are proposing to move the lists of regulated articles from the regulations in part 301 to their respective PPQ web page, we are also proposing to remove the lists of exemptions from the regulations in these two subparts. Instead, the regulations would indicate that, for the witchweed and golden nematode programs, the list of regulated articles on their respective web page is annotated to indicate the conditions under which a particular regulated article is exempt from regulations.

Fruit Flies

In "Subpart C—Fruit Flies" (§§ 301.32 through 301.32-10), § 301.32-2 lists regulated articles. However, the manner in which it does so is unique within the regulations in part 301.

Paragraph (a) of that section contains a table of berries, fruits, nuts, and vegetables that are considered regulated articles for certain species of fruit flies unless the berries, fruits, nuts, or

vegetables are canned, dried, or frozen below -17.8 °C (0 °F). We are proposing to move this table to the PPQ fruit fly web page.

Paragraph (b) of the section currently lists species in the family Cucurbitaceae, and states that plants of these listed species are regulated articles for melon fruit fly. We are moving the list of species from the regulations to the PPQ fruit fly web page. We are also proposing to clarify that the prohibition pertains to plants that are producing or have produced the species. We are proposing this clarification in order to indicate that a plant is still regulated, even if it no longer bears fruit. Finally, because paragraph (b) of this section would now contain our proposed notice-based process for designating new regulated articles for fruit flies, these provisions would be moved to paragraph (c).

Current paragraph (c) of the section provides that soil is a regulated article, if it is within the dripline of the plants listed in paragraph (b) of the section or plants that are producing or have produced any article listed in paragraph (a) of this section. Because the lists in paragraph (a) and paragraph (b) would both be moved to the PPQ fruit fly web page, we are proposing to revise paragraph (c) to indicate that soil is a regulated article if it is within the dripline of a plant list on that website and is annotated with an asterisk.

Black Stem Rust

“Subpart D—Black Stem Rust” differs from the general structure of the other subparts in part 301. The subpart quarantines the entire conterminous United States, including the District of Columbia, for black stem rust. It designates States and portions of States as protected areas if they have eradicated rust-susceptible plants of the genera *Berberis*, *Mahoberberis*, and *Mahonia* under the cooperative Federal-State eradication program for black stem rust and have met other program requirements, and prohibits the interstate movement of all rust-susceptible *Berberis*, *Mahoberberis*, and *Mahonia* plants, seeds, fruits, and other plant parts capable of propagation, except *Mahonia* cuttings for decorative purposes into or through protected areas. Finally, it provides lists of species of *Berberis*, *Mahoberberis*, and *Mahonia* that the U. S. Department of

Agriculture (USDA) has found to be rust-resistant, and allows the restricted interstate movement of such species into or through protected areas.

In our proposed rule, we are proposing to move the list of protected areas and the lists of rust-resistant species from the regulations to the PPQ black stem rust web page. We would update the list of protected areas using the same process described previously in this document for quarantined areas, and would update the list of rust-resistant species through the process described previously in this document for regulated articles.

Gypsy Moth

“Subpart E—Gypsy Moth” refers to “generally infested areas,” rather than quarantined areas. However, operationally, Federal and State employees of the program have long referred to generally infested areas as “quarantined areas,” and this is the nomenclature most commonly used by regulated entities within the program. Accordingly, we are proposing to revise all uses of the term “generally infested area” in the subpart to “quarantined area.” This is, again, a change in nomenclature, and does not impact the contextual meaning of that term within the subpart.

Japanese Beetle

We elected not to include “Subpart F—Japanese Beetle,” within this proposed rule. The subpart regulates only airports within quarantined areas and designates only one regulated article, aircraft at or from regulated airports. Because of this unique regulatory structure, we do not consider the notice-based processes described in this document to be appropriate or necessary for this subpart.

Pink Bollworm

A 2018 Federal Order⁴ (DA-2018-35) revised the criteria used within the program in order to designate an area as regulated for pink bollworm. We are proposing to incorporate these

⁴To view the Federal Order, go to https://www.aphis.usda.gov/plant_health/plant_pest_info/cotton_pests/downloads/DA-2018-35.pdf.

revised criteria within the regulations. We are also proposing to indicate that, as a result of that Federal Order, Florida is the only State under Federal quarantine for pink bollworm.

Witchweed

In “Subpart O—Witchweed,” paragraph (b) of § 301.80-3 governs the interstate movement of soil samples to laboratories for processing, testing, or analysis. Currently, footnote 4, which will be redesignated as footnote 2, lists an address from which pamphlets containing provisions for laboratory approval may be obtained. This information is outdated, and no such pamphlets currently exist. Instead, provisions for laboratory approval are obtained from a State’s State Plant Health Director. We are proposing to update this information and include a web address for contact information.

The regulations in paragraph (b) also state that a list of approved laboratories is available in a supplemental regulation referenced in current footnote 5. This information is inaccurate, as PPQ no longer maintains a list of approved laboratories. We are proposing to remove the phrase “and so listed by him in a supplemental regulation” from paragraph (b), and remove the footnote.

Imported Fire Ant

Within “Subpart P—Imported Fire Ant,” paragraphs (a) through (c) of § 301.81-3 contain criteria for designating additional quarantined areas. We are proposing to consolidate these criteria into a single paragraph, and to make minor editorial revisions to improve clarity.

Currently footnote 3 of § 301.81-4 includes the same outdated information regarding provisions for laboratory approval for soil samples that is outlined in the discussion of witchweed above. We are proposing to update this information in the same manner as discussed above and redesignate footnote 3 as footnote 1.

Golden Nematode

Within “Subpart R—Golden Nematode,” current footnote 3 in § 301.85-3, which will be redesignated as footnote 2, contains the same outdated information regarding provisions for laboratory approval for soil samples that is outlined in the discussions of witchweed and

imported fire ant above. We are proposing to update the information in the same manner as discussed above. Currently, footnote 4 contains the same inaccurate information regarding a list of approved laboratories that is outlined in the discussion of witchweed. We are proposing to remove this inaccurate information in this subpart as well by removing footnote 4.

Karnal Bunt

Similarly, within “Subpart U—Karnal Bunt,” the criteria for designating a regulated area are found in paragraphs (a) through (c) of § 301.89-3. We are proposing to consolidate these criteria into a single paragraph, and to make minor editorial revisions to improve clarity.

In the same section, we are updating a reference to an obsolete statutory authority to instead point to the parallel provision within the PPA.

Phytophthora ramorum

“Subpart X—*Phytophthora Ramorum*” (§§ 301.92 through 301.92-12) distinguishes between associated articles, regulated articles, and restricted articles, and places different restrictions on the movement of these articles from a quarantined area, depending on which category they fall into.

Associated articles are nursery stock of taxa associated with *P. ramorum*, but not proven to be hosts. Regulated articles are nursery stock and other plant products of taxa that are proven hosts for *P. ramorum*. Restricted articles are bark chips or mulch of proven host plant taxa or forest stock of proven host or associated plant taxa that are grown or located in a quarantined area.

Currently, proven host taxa are listed in § 301.92-2(d), associated plant taxa are listed in § 301.92-2(e), and quarantined areas are listed in § 301.92-3(a)(3). We are proposing to move these lists of associated plant taxa, proven host taxa, and quarantined areas to the PPQ

Phytophthora ramorum web page.

Notification of Proposed Codification of Federal Orders

As we mentioned previously in this document, APHIS has often issued Federal Orders to update lists of quarantined areas and regulated articles for domestic plant pest programs. When this occurs, the relevant program updates the list of quarantined areas and regulated articles for their program at the following website:

<https://www.aphis.usda.gov/aphis/ourfocus/planthealth/plant-pest-and-disease-programs/pests-and-diseases>.

If this proposed rule is finalized, we would, in most instances, remove lists of quarantined areas and regulated articles from the regulations. Therefore, we need not use rulemaking to update the lists in order to codify outstanding Federal Orders. Additionally, the lists maintained on the internet at <https://www.aphis.usda.gov/aphis/ourfocus/planthealth/plant-pest-and-disease-programs/pests-and-diseases>, which are up-to-date and reflect the issuance of the Federal Orders, would have regulatory force. Accordingly, this proposed rule would effectively codify those Federal Orders. The list of Federal Orders that would be codified in such a manner by this action can be found at: <https://www.aphis.usda.gov/aphis/ourfocus/planthealth/plant-pest-and-disease-programs/pests-and-diseases/docket-codified-federal-orders>.

Miscellaneous

Finally, we are making nonsubstantive changes to improve readability and conform with formatting requirements.

Executive Order 12866 and Regulatory Flexibility Act

This proposed rule has been determined to be not significant for the purposes of Executive Order 12866 and, therefore, has not been reviewed by the Office of Management and Budget.

In accordance with the Regulatory Flexibility Act, we have analyzed the potential economic effects of this action on small entities.

APHIS proposes to remove from the regulations lists of areas and articles associated with various plant pests, and place the lists on the PPQ website. Specifically, the PPQ website

([http://www.aphis.usda.gov/plant health info/index.shtml](http://www.aphis.usda.gov/plant_health_info/index.shtml)) would house lists of quarantined, protected, suppressive, and generally infested areas; and lists of regulated articles, exempted articles, restricted articles, associated articles, and host articles. Changes to these lists would no longer require rulemaking. Rather, changes would be made using a notice-based regulatory process. This proposed weblisting process would only be for programs that are already listed in the regulations.

Potential cost savings are not quantified. The benefits of this proposed rule to our stakeholders would be timelier and more easily accessible notification of changing phytosanitary information. The cost savings to the Agency would come from a more simplified process (i.e., using fewer resources) when taking emergency action to prevent the dissemination of plant pests and diseases. The notice-based approach would require less time and fewer steps than publishing a rule.

Under these circumstances, the Administrator of the Animal and Plant Health Inspection Service has determined that this action will not have a significant economic impact on a substantial number of small entities.

Executive Order 12372

This program/activity is listed in the Catalog of Federal Domestic Assistance under No. 10.025 and is subject to Executive Order 12372, which requires intergovernmental consultation with State and local officials. (See 2 CFR chapter IV.)

Executive Order 12988

This proposed rule has been reviewed under Executive Order 12988, Civil Justice Reform. This proposed rule: (1) Preempts all State and local laws and regulations that are inconsistent with this proposed rule; (2) has no retroactive effect; and (3) does not require administrative proceedings before parties may file suit in court challenging this proposed rule.

Paperwork Reduction Act

This proposed rule contains no new information collection or recordkeeping requirements under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

List of Subjects in 7 CFR Part 301

Agricultural commodities, Plant diseases and pests, Quarantine, Reporting and recordkeeping requirements, Transportation.

Accordingly, we are proposing to amend 7 CFR part 301 as follows:

PART 301—DOMESTIC QUARANTINE NOTICES

1. The authority citation for part 301 continues to read as follows:

Authority: 7 U.S.C. 7701-7772 and 7781-7786; 7 CFR 2.22, 2.80, and 371.3.

Section 301.75-15 issued under Sec. 204, Title II, Public Law 106-113, 113 Stat. 1501A-293; sections 301.75-15 and 301.75-16 issued under Sec. 203, Title II, Public Law 106-224, 114 Stat. 400 (7 U.S.C. 1421 note).

2. Section 301.32-1 is amended by revising the definition of “Regulated article” to read as follows:

§ 301.32-1 Definitions.

* * * * *

Regulated article. Any article identified as a regulated article under § 301.32-2 as follows: listed as of [EFFECTIVE DATE OF FINAL RULE], added in accordance with § 301.32-2(b), or otherwise designated in accordance with § 301.32-2(c) or (d).

* * * * *

3. Section 301.32.-2 is revised to read as follows:

§ 301.32-2 Regulated articles.

(a) *List of regulated articles.* Certain berries, fruits, nuts, and vegetables are regulated articles for one or more species of fruit fly unless the berries, fruits, nuts, or vegetables are canned, dried, or frozen below -17.8 °C (0 °F). The relevant commodity (both botanical name

and common name), as well as the fruit fly species for which it is a regulated article, is found at www.aphis.usda.gov/aphis/ourfocus/planthealth/plant-pest-and-disease-programs/pests-and-diseases/fruit-flies/fruit-flies-home.

(b) *Normal process for adding regulated articles.* (1) If the Administrator determines that an article not already listed at www.aphis.usda.gov/aphis/ourfocus/planthealth/plant-pest-and-disease-programs/pests-and-diseases/fruit-flies/fruit-flies-home presents a risk of spreading one or more species of fruit flies, APHIS will publish a notice in the *Federal Register* proposing to designate the article as a regulated article for the relevant species of fruit flies. The notice will provide the basis for this determination and will request public comment.

(2) If no comments are received on the notice, or if the comments do not change the Administrator's determination, APHIS will publish a second notice in the *Federal Register* designating the article as a regulated article for the relevant species of fruit flies and listing it.

(c) *Soil and plants as regulated articles.* Soil is a regulated article if it is within the dripline of a regulated article that is listed at www.aphis.usda.gov/aphis/ourfocus/planthealth/plant-pest-and-disease-programs/pests-and-diseases/fruit-flies/fruit-flies-home and that is annotated with an asterisk. Plants are regulated articles if they are producing or have produced species in the family Cucurbitaceae that are listed at www.aphis.usda.gov/aphis/ourfocus/planthealth/plant-pest-and-disease-programs/pests-and-diseases/fruit-flies/fruit-flies-home as regulated articles for melon fruit fly.

(d) *Immediate designation of other regulated articles.* Any other product, article, or means of conveyance not listed at www.aphis.usda.gov/aphis/ourfocus/planthealth/plant-pest-and-disease-programs/pests-and-diseases/fruit-flies/fruit-flies-home is a regulated article, if an inspector determines it presents a risk of spreading fruit flies, when the inspector notifies the person in possession of the product, article, or means of conveyance that it is subject to the restrictions of this subpart.

4. Section 301.32-4, the introductory text is amended by redesignating footnote 2 as footnote 1.

5. Section 301.32-5 is amended as follows:

- a. In paragraph (a), by redesignating footnote 3 as footnote 1;
- b. In paragraph (b), by redesignating footnote 4 as footnote 2; and
- c. By revising newly redesignated footnote 2.

The revision reads as follows:

§ 301.32-5 Issuance and cancellation of certificates and limited permits.

* * * * *

²See footnote 1 of this section.

§ 301.32-6 [Amended]

6. Section 301.32-6 is amended in paragraph (a) by redesignating footnote 5 as footnote 1.

7. Section 301.32-7 is amended in paragraph (a) by redesignating footnote 6 as footnote 1, and revising newly redesignated footnote 1 to read as follows:

§ 301.32-7 Assembly and inspection of regulated articles.

* * * * *

¹See footnote 1 to § 301.32-5(a).

8. Section 301.38-1 is amended as follows:

- a. In the definition of “Certificate”, by removing the words “of this subpart”;
- b. By revising the definition of “Protected area”;
- c. By revising the definition of “Regulated article” and listing it alphabetically; and
- d. In the definitions for “Rust-resistant plants” and “Rust-susceptible plants”, by removing the words “under § 301.38-2(a)(1) and (a)(2)” and adding the words “in accordance with § 301.38-2” in their place.

The revisions read as follows:

§ 301.38-1 Definitions.

* * * * *

Protected area. Those States or counties designated in accordance with § 301.38-3.

Regulated article. Any article identified as a regulated article under § 301.38-2 as follows: listed as of [EFFECTIVE DATE OF FINAL RULE], added in accordance with § 301.38-2(c), or otherwise designated in accordance with § 301.38-2(d).

* * * * *

9. Section 301.38-2 is revised to read as follows:

§ 301.38-2 Regulated articles.

(a) *Rust-resistant regulated articles.* The Administrator has determined that certain *Berberis* species and varieties are rust-resistant. A list of all such articles is located at www.aphis.usda.gov/aphis/ourfocus/planthealth/plant-pest-and-disease-programs/pests-and-diseases/barberry/ct_barberry.

(b) *Berberis, Mahoberberis, and Mahonia.* All plants, seeds, fruits, and other plant parts capable of propagation from rust-susceptible species and varieties of the genera *Berberis*, *Mahoberberis*, and *Mahonia*, except *Mahonia* cuttings for decorative purposes, are regulated articles.

(c) *Process for adding rust-resistant regulated articles – (1) Normal process.* (i) If the Administrator determines that an article not already listed at www.aphis.usda.gov/aphis/ourfocus/planthealth/plant-pest-and-disease-programs/pests-and-diseases/barberry/ct_barberry meets the definition of *rust-resistant plants* found in this subpart, APHIS will publish a notice in the *Federal Register* proposing to designate the article as a rust-resistant regulated article for black stem rust. The notice will provide the basis for this determination, and will request public comment.

(ii) If no comments are received on the notice, or if the comments do not change the Administrator's determination, APHIS will publish a second notice in the *Federal Register*

designating the article as a rust-resistant regulated article for black stem rust and listing it.

(2) *Requested process.* A person may request that an additional rust-resistant variety be added to the list at www.aphis.usda.gov/aphis/ourfocus/planthealth/plant-pest-and-disease-programs/pests-and-diseases/barberry/ct_barberry. The person requesting that a rust-resistant variety be added to the list must provide APHIS with a description of the variety, including a written description and color pictures that can be used by an inspector to clearly identify the variety and distinguish it from other varieties. If APHIS determines the variety should be added to the list, APHIS will propose to add it to the list pursuant to paragraph (c)(1) of this section.

(d) *Immediate designation of regulated articles.* Any other product or article not listed at www.aphis.usda.gov/aphis/ourfocus/planthealth/plant-pest-and-disease-programs/pests-and-diseases/barberry/ct_barberry is a regulated article if an inspector determines it presents a risk of spread of black stem rust. The inspector must notify the person in possession of the product or article that it is subject to the provisions of this subpart.

(Approved by the Office of Management and Budget under control number 0579-0186)

10. Section 301.38-3 is amended as follows:

- a. In paragraph (a), by removing the words “in paragraph (d)” and adding the words “in accordance with paragraph (d)” in their place;
- b. In paragraph (c), by redesignating footnote 4 as footnote 1;
- c. By revising paragraph (d); and
- d. In paragraph (f), by removing the words “in paragraph (d) of this section” and adding “at www.aphis.usda.gov/aphis/ourfocus/planthealth/plant-pest-and-disease-programs/pests-and-diseases/barberry/ct_barberry” in their place.

The revision reads as follows:

§ 301.38-3 Protected areas.

* * * * *

- (d) The Administrator will publish a list of all protected areas on the Plant Protection and

Quarantine (PPQ) website at www.aphis.usda.gov/aphis/ourfocus/planthealth/plant-pest-and-disease-programs/pests-and-diseases/barberry/ct_barberry. The list will include the date that the list was last updated. Lists of all protected areas may also be obtained by request from any local PPQ office; local offices are listed in telephone directories and on the internet at www.aphis.usda.gov/aphis/ourfocus/planthealth/ppq-program-overview/sphd. After a change is made to the list of protected areas in accordance with this section, APHIS will publish a notice in the *Federal Register* informing the public that the change has occurred and describing the change to the protected areas.

* * * * *

§ 301.38-4 [Amended]

11. Section 301.38-4 is amended as follows:

a. In paragraphs (b)(1)(ii), (b)(2) introductory text, and (b)(2)(i), by removing the words “of this subpart”; and

b. In paragraph (b)(2)(ii), by removing the words “in § 301.38-2(a)(2) of this subpart” and adding the words “in accordance with § 301.38-2” in their place.

§ 301.38-5 [Amended]

12. Section 301.38-5 is amended in paragraph (a) by redesignating footnote 5 as footnote 1.

§ 301.38-6 [Amended]

13. Section 301.38-6 is amended in paragraph (a) by redesignating footnote 6 as footnote 1.

14. Section 301.38-8, is amended by redesignating footnote 4 as footnote 1 and revising newly redesignated footnote 1 to read as follows:

§ 301.38-8 Costs and charges.

* * * * *

¹See footnote 1 in § 301.38-3.

Subpart E [Amended]

15. Subpart E, consisting of §§ 301.45 through 301.45-12, is amended by removing the words “generally infested” wherever they occur, and adding the word “quarantined” in their place.

16. Section 301.45 is amended by revising paragraph (a) to read as follows:

§ 301.45 Notice of quarantine; restrictions on interstate movement of specified regulated articles.

(a) *Notice of quarantine.* Pursuant to the provisions of sections 411, 412, 414, 431, and 434 of the Plant Protection Act, (7 U.S.C. 7711, 7712, 7714, 7751, and 7754), the Secretary of Agriculture hereby establishes a quarantine within the United States to prevent the spread of the gypsy moth, *Lymantria dispar* (Linnaeus), a dangerous insect injurious to forests and shade trees and not widely prevalent or distributed throughout the United States, and establishes regulations governing the interstate movement of regulated articles and outdoor household articles from quarantined areas of the United States.

* * * * *

17. Section 301.45-1 is amended as follows:

- a. By removing the definition for “Generally infested area”;
- b. In the definition for “Qualified certified applicator”, by removing the words “of this part”; and
- c. By adding, in alphabetical order, a definition for “Quarantine area”.

The addition reads as follows:

§ 301.45-1 Definitions.

* * * * *

Quarantine area. Any State, or portion thereof, listed as a generally infested area in accordance with § 301.45-2 or temporarily designated as a generally infested area in accordance with § 301.45-2(c).

* * * * *

18. Section 301.45-2 is amended as follows:

a. By revising paragraph (a);

b. In paragraph (c), by removing the words “in § 301.45-3” and adding the words “at www.aphis.usda.gov/aphis/ourfocus/planthealth/plant-pest-and-disease-programs/pests-and-diseases/gypsy-moth/ct_gypsy_moth” in their place; and

c. In paragraph (d), by adding a sentence after the last sentence.

The revision and addition read as follows:

§ 301.45-2 Authorization to designate and terminate designation of quarantined areas.

(a) Except as provided in paragraphs (a)(1) and (2) of this section, the Administrator will designate as a quarantined area each State or each portion of a State in which a gypsy moth infestation has been found by an inspector, or each portion of a State which the Administrator deems necessary to regulate because of its proximity to infestation or its inseparability for quarantine enforcement purposes from infested localities. The Administrator will publish a list of all quarantined areas on the Plant Protection and Quarantine (PPQ) website at www.aphis.usda.gov/aphis/ourfocus/planthealth/plant-pest-and-disease-programs/pests-and-diseases/gypsy-moth/ct_gypsy_moth. The list will include the date that the list was last updated. Lists of all quarantined areas may also be obtained by request from any local PPQ office; local offices are listed in telephone directories and on the internet at www.aphis.usda.gov/aphis/ourfocus/planthealth/ppq-program-overview/sphd. After a change is made to the list of quarantined areas, APHIS will publish a notice in the *Federal Register* informing the public that the change has occurred and describing the change to the quarantined areas. Notwithstanding the above criteria, an area will not be listed as a quarantined area if the Administrator determines that:

(1) The area is subject to a gypsy moth eradication program conducted by the Federal Government or a State government in accordance with the Eradication, Suppression, and Slow

the Spread alternative of the Final Environmental Impact Statement (FEIS) on Gypsy Moth Suppression and Eradication Projects that was filed with the United States Environmental Protection Agency on January 16, 1996; and

(2) State or Federal delimiting trapping surveys conducted in accordance with Section II, “Survey Procedures—Gypsy Moth” of the Gypsy Moth Treatment Manual show that the average number of gypsy moths caught per trap is less than 10 and that the trapping surveys show that the eradication program is effectively diminishing the gypsy moth population of the area.

* * * * *

(d) * * * APHIS will publish a notice in the *Federal Register* informing the public that the change has occurred.

§ 301.45-3 [Removed and Reserved]

19. Section 301.45-3 is removed and reserved.

§ 301.45-4 [Amended]

20. Section 301.45-4 is amended in paragraph (a)(1) by redesignating footnote 3 as footnote 1.

§ 301.48-1 [Amended]

21. Section 301.48-1 is amended in the definition of “Regulated airport” by removing the words “of this subpart”.

22. Section 301.51-1 is amended as follows:

a. In the definition for “Quarantined area”, by removing the words “in § 301.51-3(c) of this subpart” and adding the words “in accordance with § 301.51-2” in their place, and removing the words “of this subpart” after the citation “§ 301.51-3(b)”; and

b. By revising the definition for “Regulated article”.

The revision reads as follows:

§ 301.51-1 Definitions.

* * * * *

Regulated article. Any article identified as a regulated article under § 301.51-2 as follows: listed as of [EFFECTIVE DATE OF FINAL RULE], added in accordance with § 301.51-2(b), or otherwise designated in accordance with § 301.51-2(c).

* * * * *

23. Sections 301.51-2 and 301.51-3 are revised to read as follows:

§ 301.51-2 Regulated articles.

(a) *List of regulated articles.* The Administrator has determined that certain articles present a risk of spreading Asian longhorned beetle. A list of all such articles is found on the internet at www.aphis.usda.gov/aphis/ourfocus/planthealth/plant-pest-and-disease-programs/pests-and-diseases/asian-longhorned-beetle/asian-longhorned-beetle. Lists of all regulated articles may also be obtained by request from any local PPQ office; local offices are listed in telephone directories and on the internet at www.aphis.usda.gov/aphis/ourfocus/planthealth/ppq-program-overview/sphd.

(b) *Normal process for designating additional regulated articles.* (1) If the Administrator determines that an article not already listed at www.aphis.usda.gov/aphis/ourfocus/planthealth/plant-pest-and-disease-programs/pests-and-diseases/asian-longhorned-beetle/asian-longhorned-beetle presents a risk of spreading Asian longhorned beetle, APHIS will publish a notice in the *Federal Register* proposing to designate the article as a regulated article for Asian longhorned beetle. The notice will provide the basis for this determination, and will request public comment.

(2) If no comments are received on the notice, or if the comments do not change the Administrator's determination, APHIS will publish a second notice in the *Federal Register* designating the article as a regulated article for Asian longhorned beetle and listing it.

(c) *Immediate designation of regulated articles.* Any other article, product, or means of conveyance not already listed in accordance with paragraph (a) of this section may be designated a regulated article on an immediate basis if an inspector determines that it presents a risk of

spreading Asian longhorned beetle and notifies the person in possession of the article, product, or means of conveyance that it is now subject to the restrictions of this subpart.

§ 301.51-3 Quarantined areas.

(a) Except as otherwise provided in paragraph (b) of this section, the Administrator will list as a quarantined area each State or portion of a State in which the Asian longhorned beetle is present, in which the Administrator has reason to believe that the Asian longhorned beetle is present, or that the Administrator considers necessary to regulate because of its inseparability for quarantine enforcement purposes from localities where the Asian longhorned beetle has been found. The Administrator will publish a list of all quarantined areas (the quarantine list) on the Plant Protection and Quarantine (PPQ) website at www.aphis.usda.gov/aphis/ourfocus/planthealth/plant-pest-and-disease-programs/pests-and-diseases/asian-longhorned-beetle/asian-longhorned-beetle. The list will include the date that the list was last updated. Lists of all quarantined areas may also be obtained by request from any local PPQ office; local offices are listed in telephone directories and on the internet at www.aphis.usda.gov/aphis/ourfocus/planthealth/ppq-program-overview/sphd. After a change is made to the list of quarantined areas, APHIS will publish a notice in the *Federal Register* informing the public that the change has occurred and describing the change to the quarantined areas. Less than an entire State will be designated as a quarantined area only if the Administrator determines that:

(1) The State has adopted and is enforcing restrictions on the intrastate movement of regulated articles that are equivalent to those imposed by this subpart on the interstate movement of regulated articles; and

(2) The designation of less than an entire State as a quarantined area will be adequate to prevent the artificial interstate spread of the Asian longhorned beetle.

(b) The Administrator may temporarily designate any nonquarantined area as a quarantined area in accordance with the criteria specified in paragraph (a) of this section. The

Administrator will give written notice of this designation to owner or person in possession of the nonquarantined area, or in the case of publicly owned land, to the person responsible for the management of nonquarantined area. Thereafter, the interstate movement of any regulated articles from an area temporarily designated as quarantined area is subject to this subpart. As soon as practicable, this area will either be added to the quarantine list or the Administrator will terminate the designation. The owner or, in the case of publicly owned land, the person responsible for the management of, an area for which the designation has terminated will be given written notice of the termination as soon as practicable.

§ 301.51-6 [Amended]

24. Section 301.51-6 is amended in paragraph (a) by redesignating footnote 3 as footnote 1.

§ 301.51-7 [Amended]

25. Section 301.51-7 is amended in paragraph (a) by redesignating footnote 4 as footnote 1.

26. Section 301.52 is revised to read as follows:

§ 301.52 Quarantine; restriction on interstate movement of specified regulated articles.

(a) *Notice of quarantine.* The following States are quarantined to prevent the spread of the pink bollworm (*Pectinophora gossypiella* (Saund.)): Florida.

(b) *List of regulated articles.* The Deputy Administrator has determined that certain articles present a risk of spreading pink bollworm. A list of all such regulated articles is found on the internet at www.aphis.usda.gov/aphis/ourfocus/planthealth/plant-pest-and-disease-programs/pests-and-diseases/cotton-pests/cotton-pests. Lists of all regulated articles may also be obtained by request from any local PPQ office; local offices are listed in telephone directories and on the internet at www.aphis.usda.gov/aphis/ourfocus/planthealth/ppq-program-overview/sphd.

(c) *Normal process for designating additional regulated articles.* (1) If the Deputy

Administrator determines that an article not already listed at www.aphis.usda.gov/aphis/ourfocus/planthealth/plant-pest-and-disease-programs/pests-and-diseases/cotton-pests/cotton-pests presents a risk of spreading pink bollworm, APHIS will publish a notice in the *Federal Register* proposing to designate the article as a regulated article for pink bollworm. The notice will provide the basis for this determination, and will request public comment.

(2) If no comments are received on the notice, or if the comments do not change the Deputy Administrator's determination, APHIS will publish a second notice in the *Federal Register* designating the article as a regulated article for pink bollworm and listing it.

(d) *Immediate designation of regulated articles.* An inspector may designate any other product, article, or means of conveyance as a regulated article for pink bollworm, if the inspector determines that it presents a risk of spreading pink bollworm, and after the inspector provides actual notification to the person in possession of the product, article, or means of conveyance that it is subject to the restrictions of this subpart.

27. Section 301.52-1 is amended by revising the definitions of "Regulated area", "Regulated articles", and "Suppressive area" to read as follows:

§ 301.52-1 Definitions.

* * * * *

Regulated area. Any quarantined State, territory, or district, or any portion thereof, listed in accordance with § 301.52-2.

Regulated articles. Any article identified as a regulated article under § 301.52 as follows: listed as of [EFFECTIVE DATE OF FINAL RULE], added in accordance with § 301.52(c), or otherwise designated in accordance with § 301.52(d).

* * * * *

Suppressive area. That part of a regulated area where eradication of infestation is undertaken as an objective, as designated by the Deputy Administrator in accordance with

§ 301.52-2.

28. Section 301.52-2 is revised to read as follows:

§ 301.52-2 Authorization for the Deputy Administrator to list regulated areas and suppressive or generally infested areas.

(a) The Deputy Administrator will list as a regulated area each State or portion of a State in which evidence of a reproducing population of pink bollworm is present, or in which there is reason to believe that pink bollworm is present, or which it is deemed necessary to regulate because of their proximity to infestation or their inseparability for quarantine enforcement purposes from infested localities. The Deputy Administrator may divide any regulated area into a suppressive area and a generally infested area in accordance with the definitions of these terms in § 301.52-1. The Deputy Administrator will publish a list of all regulated areas, including the suppressive and generally infested areas therein, at www.aphis.usda.gov/aphis/ourfocus/planthealth/plant-pest-and-disease-programs/pests-and-diseases/cotton-pests/cotton-pests. The list will include the date that the list was last updated. Lists of all regulated areas, including the suppressive and generally infested areas therein, may also be obtained by request from any local office of PPQ; local offices are listed in telephone directories and on the internet at www.aphis.usda.gov/aphis/ourfocus/planthealth/ppq-program-overview/sphd. After a change is made to the list of regulated areas, APHIS will publish a notice in the *Federal Register* informing the public that the change has occurred and describing the change to the regulated areas. Less than an entire State will be designated as a regulated area only if the Deputy Administrator determines that:

(1) The State has adopted and is enforcing restrictions on the intrastate movement of regulated articles that are equivalent to those imposed by this subpart on the interstate movement of regulated articles; and

(2) The designation of less than an entire State as a regulated area will be adequate to prevent the artificial interstate spread of pink bollworm.

(b) [Reserved]

§ 301.52-2a [Removed and Reserved]

29. Section 301.52-2a is removed and reserved.

§ 301.52-3 [Amended]

30. Section 301.52-3 is amended in the section heading by redesignating footnote 2 as footnote 1.

31. Section 301.55-1 is amended as follows:

- a. In the definition for “Quarantined area”, by removing the words “listed in 301.55-3(c)” and adding the words “listed in accordance with § 301.55-3(a)” in their place; and
- b. By revising the definition for “Regulated article”.

The revision reads as follows:

§ 301.55-1 Definitions.

* * * * *

Regulated article. Any article identified as a regulated article under § 301.55-2 as follows: listed as of [EFFECTIVE DATE OF FINAL RULE], added in accordance with § 301.55-2(b), or otherwise designated in accordance with § 301.55-2(c).

* * * * *

32. Sections 301.55-2 and 301.55-3 are revised to read as follows:

§ 301.55-2 Regulated articles.

(a) *List of regulated articles.* The Administrator has determined that certain articles present a risk of spreading the South American cactus moth. A list of all such regulated articles is found on the internet at www.aphis.usda.gov/aphis/ourfocus/planthealth/plant-pest-and-disease-programs/pests-and-diseases/sa_insects/south-american-cactus-moth. Lists of all regulated articles may also be obtained by request from any local office of PPQ; local offices are listed in telephone directories and on the internet at www.aphis.usda.gov/aphis/ourfocus/planthealth/ppq-program-overview/sphd.

(b) *Normal process for designating additional regulated articles.* (1) If the Administrator determines that an article not already listed at www.aphis.usda.gov/aphis/ourfocus/planthealth/plant-pest-and-disease-programs/pests-and-diseases/sa_insects/south-american-cactus-moth presents a risk of spreading South American cactus moth, APHIS will publish a notice in the *Federal Register* proposing to designate the article as a regulated article for South American cactus moth. The notice will provide the basis for this determination, and will request public comment.

(2) If no comments are received on the notice, or if the comments do not change the Administrator's determination, APHIS will publish a second notice in the *Federal Register* designating the article as a regulated article for South African cactus moth and listing it.

(c) *Immediate designation of regulated articles.* An inspector may designate any other product, article, or means of conveyance not listed at www.aphis.usda.gov/aphis/ourfocus/planthealth/plant-pest-and-disease-programs/pests-and-diseases/sa_insects/south-american-cactus-moth as a regulated article if the inspector determines it presents a risk of spreading the South American cactus moth, after the inspector provides written notification to the person in possession of the product, article, or means of conveyance that it is subject to the restrictions of this subpart.

§ 301.55-3 Quarantined areas.

(a) Except as otherwise provided in paragraph (b) of this section, the Administrator will list as a quarantined area each State, or each portion of a State, in which the South American cactus moth has been found by an inspector, in which the Administrator has reason to believe that the South American cactus moth is present, or that the Administrator considers necessary to quarantine because of its inseparability for quarantine enforcement purposes from localities where South American cactus moth has been found. The Administrator will publish a list of all quarantined areas (the quarantine list) on the Plant Protection and Quarantine (PPQ) website at www.aphis.usda.gov/aphis/ourfocus/planthealth/plant-pest-and-disease-programs/pests-and-diseases/sa_insects/south-american-cactus-moth

diseases/sa_insects/south-american-cactus-moth. The list will include the date that the list was last updated. Lists of all quarantined areas may also be obtained by request from any local PPQ office; local offices are listed in telephone directories and on the internet at www.aphis.usda.gov/aphis/ourfocus/planthealth/ppq-program-overview/sphd. After a change is made to the list of quarantined areas, APHIS will publish a notice in the *Federal Register* informing the public that the change has occurred and describing the change to the quarantined areas. Less than an entire State will be designated as a quarantined area only if the Administrator determines that:

(1) The State has adopted and is enforcing restrictions on the intrastate movement of the regulated articles that are equivalent to those imposed by this subpart on the interstate movement of regulated articles; and

(2) The designation of less than the entire State as a quarantined area will be adequate to prevent the interstate spread of the South American cactus moth.

(b) The Administrator or an inspector may temporarily designate any nonquarantined area in a State as a quarantined area in accordance with the criteria specified in paragraph (a) of this section. The Administrator will give a copy of this regulation along with written notice of the temporary designation to the owner or person in possession of the nonquarantined area, or, in the case of publicly owned land, to the person responsible for the management of the nonquarantined area. Thereafter, the interstate movement of any regulated article from an area temporarily designated as a quarantined area will be subject to this subpart. As soon as practicable, the area will be added to the quarantine list or the designation will be terminated by the Administrator or an inspector. The owner or person in possession of, or, in the case of publicly owned land, the person responsible for the management of, an area for which designation is terminated will be given written notice of the termination as soon as practicable.

§ 301.55-4 [Amended]

33. Section 301.55-4 is amended in the introductory text by redesignating footnote 3 as

footnote 1.

§ 301.55-5 [Amended]

34. Section 301.55-5 is amended in paragraph (a) by redesignating footnote 4 as footnote 1.

§ 301.55-6 [Amended]

35. Section 301.55-6 is amended by redesignating footnote 5 as footnote 1.

36. Section 301.55-7 is amended in paragraph (a) by redesignating footnote 6 as footnote 1 and revising newly designated footnote 1 to read as follows:

§ 301.55-7 Assembly and inspection of regulated articles.

* * * * *

¹ See footnote 1 in § 301.55-5.

37. Section 301.74-1 is amended as follows:

- a. In the definition for “Departmental permit”, by removing the words “of this subpart”;
- b. By revising the definition for “Quarantined area”; and
- c. By revising the definition for “Regulated article”.

The revisions read as follows:

§ 301.74-1 Definitions.

* * * * *

Quarantined area. Any State, or any portion of a State, listed in accordance with § 301.74-3(a) or otherwise designated as a quarantined area in accordance with § 301.74-3(b).

Regulated article. Any article identified as a regulated article under § 301.74-2 as follows: listed as of [EFFECTIVE DATE OF FINAL RULE], added in accordance with § 301.74-2(a)(1)-(2), or otherwise designated in accordance with § 301.74-2(b), based on its susceptibility to the form or strain of plum pox detected in the quarantined area.

* * * * *

38. Sections 301.74-2 and 301.74-3 are revised to read as follows:

§ 301.74-2 Regulated articles.

(a) The Administrator has determined that certain articles present a risk of spreading plum pox. A list of all such articles is found on the internet at www.aphis.usda.gov/aphis/ourfocus/planthealth/plant-pest-and-disease-programs/pests-and-diseases/plum-pox/plumpox. Lists of all regulated articles may also be obtained by request from any local Plant Protection and Quarantine (PPQ) office; local offices are listed in telephone directories and on the internet at www.aphis.usda.gov/aphis/ourfocus/planthealth/ppq-program-overview/sphd.

(1) If the Administrator determines that an article not already listed at www.aphis.usda.gov/aphis/ourfocus/planthealth/plant-pest-and-disease-programs/pests-and-diseases/plum-pox/plumpox presents a risk of spreading plum pox, APHIS will publish a notice in the *Federal Register* proposing to designate the article as a regulated article for plum pox. The notice will provide the basis for this determination, and will request public comment.

(2) If no comments are received on the notice, or if the comments do not change the Administrator's determination, APHIS will publish a second notice in the *Federal Register* designating the article as a regulated article for plum pox and listing it.

(b) An inspector may designate any other product or article as a regulated article, if the inspector determines it to present a risk of spreading plum pox, and after the inspector notifies the person in possession of the product or article that it is subject to the restrictions in the regulations.

§ 301.74-3 Quarantined areas.

(a) Except as otherwise provided in paragraph (b) of this section, the Administrator will list as a quarantined area each State, or each portion of a State, in which plum pox has been detected through inspection and laboratory testing, or in which the Administrator has reason to believe that plum pox is present, or that the Administrator considers necessary to quarantine because of its inseparability for quarantine enforcement purposes from localities in which plum

pox has been detected. The Administrator will publish a list of all quarantined areas (the quarantine list) on the PPQ website at www.aphis.usda.gov/aphis/ourfocus/planthealth/plant-pest-and-disease-programs/pests-and-diseases/plum-pox/plumpox. The list will include the date that the list was last updated. Lists of all quarantined areas may also be obtained by request from any local PPQ office; local offices are listed in telephone directories and on the internet at www.aphis.usda.gov/aphis/ourfocus/planthealth/ppq-program-overview/sphd. After a change is made to the list of quarantined areas, APHIS will publish a notice in the *Federal Register* informing the public that the change has occurred and describing the change to the quarantined areas. Less than an entire State will be designated as a quarantined area only if the Administrator determines that:

(1) The State has adopted and is enforcing restrictions on the intrastate movement of regulated articles that are equivalent to those imposed by this subpart on the interstate movement of regulated articles; and

(2) The designation of less than an entire State as a quarantined area will be adequate to prevent the interstate spread of plum pox.

(b) The Administrator or an inspector may temporarily designate any nonquarantined area in a State as a quarantined area in accordance with paragraph (a) of this section. The Administrator will give a copy of this regulation along with a written notice for the temporary designation to the owner or person in possession of the nonquarantined area. Thereafter, the interstate movement of any regulated article from an area temporarily designated as a quarantined area will be subject to this subpart. As soon as practicable, this area will be added to the quarantine list or the designation will be terminated by the Administrator or an inspector. The owner or person in possession of an area for which the quarantine designation is terminated will be given notice of the termination as soon as practicable.

§ 301.74-4 [Amended]

39. Section 301.74-4 is amended in the introductory text by redesignating footnote 2 as

footnote 1.

40. Section 301.75-1 is amended as follows:

a. In the definitions for “Commercial citrus-producing area” and “Quarantined area”, by removing the words “of this subpart”; and

b. By revising the definition for “Regulated article”.

The revision reads as follows:

§ 301.75-1 Definitions.

* * * * *

Regulated article. Any article identified as a regulated article under § 301.75-3 as follows: listed as of [EFFECTIVE DATE OF FINAL RULE], added in accordance with § 301.75-3(b), or otherwise designated in accordance with § 301.75-3(c).

* * * * *

41. Sections 301.75-3 and 301.75-4 are revised to read as follows:

§ 301.75-3 Regulated articles.

(a) *List of regulated articles.* The Administrator has determined that certain articles present a risk of spread of citrus canker. A list of all such regulated articles is found on the internet at www.aphis.usda.gov/aphis/ourfocus/planthealth/plant-pest-and-disease-programs/pests-and-diseases/citrus/citrus-canker. Lists of all regulated articles may also be obtained by request from any local Plant Protection and Quarantine (PPQ) office; local offices are listed in telephone directories and on the internet at www.aphis.usda.gov/aphis/ourfocus/planthealth/ppq-program-overview/sphd.

(b) *Normal process for designating additional regulated articles.* (1) If the Administrator determines that an article not already listed at www.aphis.usda.gov/aphis/ourfocus/planthealth/plant-pest-and-disease-programs/pests-and-diseases/citrus/citrus-canker presents a risk of spread of citrus canker, APHIS will publish a notice in the *Federal Register* proposing to designate the article as a regulated article for citrus

canker. The notice will provide the basis for this determination, and will request public comment.

(2) If no comments are received on the notice, or if the comments do not change the Administrator's determination, APHIS will publish a second notice in the *Federal Register* designating the article as a regulated article for citrus canker and listing it.

(c) *Immediate designation of regulated articles.* An inspector may designate any other product, article, or means of conveyance as a regulated article, if the inspector determines that it presents a risk of spread of citrus canker and the person in possession thereof has actual notice that the product, article, or means of conveyance is subject to the provisions of this subpart.

§ 301.75-4 Quarantined areas.

(a) *Quarantined areas.* The Administrator will list as a quarantined area each State or portion of a State in which an infestation of citrus canker is found. The Administrator will publish a list of all quarantined areas (the quarantine list) on the PPQ website at www.aphis.usda.gov/aphis/ourfocus/planthealth/plant-pest-and-disease-programs/pests-and-diseases/citrus/citrus-canker. The list will include the date that the list was last updated. Lists of all quarantined areas may also be obtained by request from any local PPQ office; local offices are listed in telephone directories and on the internet at www.aphis.usda.gov/aphis/ourfocus/planthealth/ppq-program-overview/sphd. After a change is made to the list of quarantined areas, APHIS will publish a notice in the *Federal Register* informing the public that the change has occurred and describing the change to the quarantined areas. Less than an entire State will be designated as a quarantined area only if the Administrator determines that:

(1) *Survey.* No area has been designated a survey area.

(2) *Intrastate movement of regulated articles.* The State enforces restrictions on the intrastate movement of regulated articles from the quarantined area that are at least as stringent as those on the interstate movement of regulated articles from the quarantined area, except as

follows:

(i) Regulated fruit may be moved intrastate from a quarantined area for processing into a product other than fresh fruit if all of the following conditions are met:

(A) The regulated fruit is accompanied by a document that states the location of the grove in which the regulated fruit was produced, the variety and quantity of regulated fruit being moved intrastate, the address to which the regulated fruit will be delivered for processing, and the date the intrastate movement began,

(B) The regulated fruit and any leaves and litter are completely covered, or enclosed in containers or in a compartment of a vehicle, during the intrastate movement,

(C) The vehicles, covers, and any containers used to carry the regulated fruit intrastate are treated in accordance with part 305 of this chapter before leaving the premises where the regulated fruit is unloaded for processing, and

(D) All leaves, litter, and culls collected from the shipment of regulated fruit at the processing facility are either incinerated at the processing facility or buried at a public landfill that is fenced, prohibits the removal of dumped material, and covers dumped material with dirt at the end of every day that dumping occurs.

(ii) Regulated fruit may be moved intrastate from a quarantined area for packing, either for subsequent interstate movement with a limited permit or for export from the United States, if all of the following conditions are met:

(A) The regulated fruit is accompanied by a document that states the location of the grove in which the regulated fruit was produced, the variety and quantity of regulated fruit being moved intrastate, the address to which the regulated fruit will be delivered for packing, and the date the intrastate movement began,

(B) The regulated fruit and any leaves and litter are completely covered, or enclosed in containers or in a compartment of a vehicle, during the intrastate movement,

(C) The vehicles, covers, and any containers used to carry the regulated fruit intrastate are

treated in accordance with part 305 of this chapter before leaving the premises where the regulated fruit is unloaded for packing,

(D) Any equipment that comes in contact with the regulated fruit at the packing plant is treated in accordance with part 305 of this chapter before being used to handle any fruit eligible for interstate movement to commercial citrus-producing areas, and

(E) All leaves and litter collected from the shipment of regulated fruit at the packing plant are either incinerated at the packing plant or buried at a public landfill that is fenced, prohibits the removal of dumped material, and covers dumped material with dirt at the end of every day that dumping occurs. All culls collected from the shipment of regulated fruit are either processed into a product other than fresh fruit, incinerated at the packing plant, or buried at a public landfill that is fenced, prohibits the removal of dumped material, and covers dumped material with dirt at the end of every day that dumping occurs. Any culls moved intrastate for processing must be completely covered, or enclosed in containers or in a compartment of a vehicle, during the intrastate movement, and the vehicles, covers, and any containers used to carry the regulated fruit must be treated in accordance with part 305 of this chapter before leaving the premises where the regulated fruit is unloaded for processing.

(iii) Grass, tree, and plant clippings may be moved intrastate from the quarantined area for disposal in a public landfill or for composting in a recycling facility, if all of the following conditions are met:

(A) The public landfill or recycling facility is located within the survey area described in paragraph (d)(1) of this section,

(B) The grass, tree, or plant clippings are completely covered during the movement from the quarantined area to the public landfill or recycling facility, and

(C) Any public landfill used is fenced, prohibits the removal of dumped material, and covers dumped material with dirt at the end of every day that dumping occurs.

(3) *Inspections.* (i) In the quarantined area, every regulated plant and regulated tree,

except indoor houseplants and regulated plants and regulated trees at nurseries, is inspected for citrus canker at least once a year, between May 1 through December 31, by an inspector.

(ii) In the quarantined area, every regulated plant and regulated tree at every nursery containing regulated plants or regulated trees is inspected for citrus canker by an inspector at intervals of no more than 45 days.

(4) *Treatment of personnel, vehicles, and equipment.* In the quarantined area, all vehicles, equipment, and other articles used in providing inspection, maintenance, harvesting, or related services in any grove containing regulated plants or regulated trees, or in providing landscaping or lawn care services on any premises containing regulated plants or regulated trees, must be treated in accordance with part 305 of this chapter upon leaving the grove or premises. All personnel who enter the grove or premises to provide these services must be treated in accordance with part 305 of this chapter upon leaving the grove or premises.

(5) *Destruction of infected plants and trees.* No more than 7 days after a State or Federal laboratory confirms that a regulated plant or regulated tree is infected, the State must provide written notice to the owner of the infected plant or infected tree that the infected plant or infected tree must be destroyed. The owner must have the infected plant or infected tree destroyed within 45 days after receiving the written notice.

(b) *Designation change.* The Administrator may designate any non-quarantined area as a quarantined area in accordance with paragraph (a) of this section upon giving written notice of this designation to the owner or persons in possession of the non-quarantined area. Thereafter, regulated articles may be moved interstate from that area only in accordance with this subpart. As soon as practicable, this area will be added to the quarantine list, or the Administrator will terminate the designation. The owner or person in possession of an area for which designation is terminated will be given written notice as soon as practicable.

(c) *Removal of areas from quarantine.* An area on the quarantine list will be removed from quarantine if the area has been without infestation for 2 years. The list will be changed, and

the public informed of this change, in accordance with the process specified in paragraph (a) of this section.

§ 301.75-8 [Amended]

42. Section 301.75-8 is amended in paragraph (c) by removing the words “of this subpart”.

§ 301.75-10 [Amended]

43. Section 301.75-10 is amended in paragraph (b) by removing the words “of this subpart”.

44. Section 301.76-1 is amended by revising the definition for “Regulated article” to read as follows:

§ 301.76-1 Definitions.

* * * * *

Regulated article. Any article identified as a regulated article under § 301.76-2 as follows: listed as of [EFFECTIVE DATE OF FINAL RULE], added in accordance with § 301.76-2(b), or otherwise designated in accordance with § 301.76-2(c).

* * * * *

45. Section 301.76-2 is revised to read as follows:

§ 301.76-2 Regulated articles for Asian citrus psyllid and citrus greening.

(a) *List of regulated articles.* The Administrator has determined that certain articles present a risk of spreading Asian citrus psyllid and/or citrus greening. A list of all such regulated articles is located at www.aphis.usda.gov/aphis/ourfocus/planthealth/plant-pest-and-disease-programs/pests-and-diseases/citrus/acp and www.aphis.usda.gov/aphis/ourfocus/planthealth/plant-pest-and-disease-programs/pests-and-diseases/citrus/citrus-greening, respectively. The list indicates whether the article is a regulated article for both citrus greening and Asian citrus psyllid, or just one of these two pests. Lists of all regulated articles may also be obtained by request from any local Plant Protection and

Quarantine office; local offices are listed in telephone directories and on the internet at www.aphis.usda.gov/aphis/ourfocus/planthealth/ppq-program-overview/sphd.

(b) *Normal process for designating additional regulated articles.* (1) If the Administrator determines that an article not already listed at www.aphis.usda.gov/aphis/ourfocus/planthealth/plant-pest-and-disease-programs/pests-and-diseases/citrus/acp and/or www.aphis.usda.gov/aphis/ourfocus/planthealth/plant-pest-and-disease-programs/pests-and-diseases/citrus/citrus-greening presents a risk of spreading Asian citrus psyllid and/or citrus greening, APHIS will publish a notice in the *Federal Register* proposing to designate the article as a regulated article for either or both of these pests. The notice will provide the basis for this determination, and will request public comment.

(2) If no comments are received on the notice, or if the comments do not change the Administrator's determination, APHIS will publish a second notice in the *Federal Register* designating the article as a regulated article and listing it.

(c) *Immediate designation of regulated articles.* An inspector may designate any other product, article, or means of conveyance as a regulated article for Asian citrus psyllid and/or citrus greening, if the inspector determines that it presents a risk of spreading these pests, and after the inspector provides written notification to the person in possession of the product, article, or means of conveyance that it is subject to the restrictions of this subpart.

(d) *Exemption after certain methods of processing.* The Administrator may determine that certain methods of processing render regulated articles such that they no longer present a risk of spreading Asian citrus psyllid or citrus greening. Such methods are found at www.aphis.usda.gov/aphis/ourfocus/planthealth/plant-pest-and-disease-programs/pests-and-diseases/citrus. Articles processed in such a manner are exempt from the regulations in this subpart.

§ 301.76-5 [Amended]

46. Section 301.76-5 is amended as follows:

- a. In paragraph (a)(1), by redesignating footnote 2 as footnote 1; and
- b. In paragraph (e), by removing the words “of this subpart”.

§ 301.76-6 [Amended]

47. Section 301.76-6 is amended as follows:

- a. In paragraph (a)(1), by removing “7 CFR” and redesignating footnote 3 as footnote 1;
- b. In paragraph (b)(1), by redesignating footnote 4 as footnote 2;
- c. In paragraph (c)(2)(i), by removing the citation “paragraphs (c)(1)(i) through (c)(1)(iv)” and adding the citation “paragraphs (c)(1)(i) through (iv)” in its place;
- d. In paragraph (d) introductory text, by redesignating footnote 5 as footnote 3; and
- e. In paragraphs (d)(1) and (2), by removing “7 CFR”.

§ 301.76-7 [Amended]

48. Section 301.76-7 is amended as follows:

- a. In paragraph (a)(1), by redesignating footnote 6 as footnote 1; and
- b. In paragraph (b)(1), by removing “7 CFR”.

§ 301.76-8 [Amended]

49. Section 301.76-8 is amended in paragraph (a) by redesignating footnote 7 as footnote 1.

§ 301.76-9 [Amended]

50. Section 301.76-9 is amended by redesignating footnote 8 as footnote 1.

51. Section 301.80 is revised to read as follows:

§ 301.80 Quarantine; restriction on interstate movement of specified regulated articles.

(a) *Notice of quarantine.* Under the authority of sections 411, 412, 414, and 434 of the Plant Protection Act (7 U.S.C. 7711, 7712, 7714, and 7754), the Secretary of Agriculture quarantines the States of North Carolina and South Carolina in order to prevent the spread of witchweed (*Striga* spp.), a parasitic plant that causes a dangerous disease of corn, sorghum, and other crops of the grass family and is not widely prevalent or distributed within and throughout

the United States. Through the aforementioned authorities, the Secretary imposes a quarantine on the States of North Carolina and South Carolina with respect to the interstate movement from those States of regulated articles, issues regulations in this subpart governing the movement of such articles, and gives notice of this quarantine action.

(b) *Quarantine restrictions on the interstate movement of regulated articles.* No common carrier or other person shall move interstate from any quarantined State any regulated articles, except in accordance with the conditions prescribed in this subpart.

(c) *List of regulated articles.* The Deputy Administrator has determined that certain articles present a hazard of spread of witchweed. A list of all such regulated articles is found on the internet at www.aphis.usda.gov/aphis/ourfocus/planthealth/plant-pest-and-disease-programs/pests-and-diseases/SA_Weeds/SA_Noxious_Weeds_Program. Lists of all regulated articles may also be obtained by request from any local Plant Protection and Quarantine (PPQ) office; local offices are listed in telephone directories and on the internet at www.aphis.usda.gov/aphis/ourfocus/planthealth/ppq-program-overview/sphd.

(d) *Normal process for designating additional regulated articles.* (1) If the Deputy Administrator determines that an article not already listed at www.aphis.usda.gov/aphis/ourfocus/planthealth/plant-pest-and-disease-programs/pests-and-diseases/SA_Weeds/SA_Noxious_Weeds_Program presents a hazard of spread of witchweed, APHIS will publish a notice in the *Federal Register* proposing to designate the article as a regulated article for witchweed. The notice will provide the basis for this determination, and will request public comment.

(2) If no comments are received on the notice, or if the comments do not change the Deputy Administrator's determination, APHIS will publish a second notice in the *Federal Register* designating the article as a regulated article for witchweed and listing it.

(e) *Immediate designation of regulated articles.* An inspector may designate any other article, product, or means of conveyance as a regulated article, if the inspector determines that it

presents a hazard of spread of witchweed, and after the person in possession of the article has been so notified.

52. Section 301.80-1 is amended by revising the definitions for “Regulated area”, “Regulated articles”, and “Suppressive area” to read as follows:

§ 301.80-1 Definitions.

* * * * *

Regulated area. Any quarantined State, or any portion thereof, designated as a regulated area in accordance with § 301.80-2.

Regulated articles. Any article identified as a regulated article under § 301.80 as follows: listed as of [EFFECTIVE DATE OF FINAL RULE], added in accordance with § 301.80(d), or otherwise designated in accordance with § 301.80(e).

* * * * *

Suppressive area. That portion of a regulated area where eradication of infestation is undertaken as an objective.

* * * * *

53. Section 301.80-2 is revised to read as follows:

§ 301.80-2 Authorization to designate, and terminate designation of, regulated areas and suppressive or generally infested areas; and to exempt articles from certification, permit, or other requirements.

(a) *List of regulated areas and suppressive or generally infested areas.* The Deputy Administrator will list as a regulated area each quarantined State, or portion of a State, in which witchweed has been found or in which there is reason to believe that witchweed is present or which it is deemed necessary to regulate because of its proximity to infestation or its inseparability for quarantine enforcement purposes from infested localities. The Deputy Administrator may divide any regulated area into a suppressive area and generally infested area in accordance with definitions of these terms in § 301.80-1. The Deputy Administrator will

publish a list of all regulated areas (the regulated areas list) on the PPQ website at www.aphis.usda.gov/aphis/ourfocus/planthealth/plant-pest-and-disease-programs/pests-and-diseases/SA_Weeds/SA_Noxious_Weeds_Program. The list will include the date that the list was last updated. Lists of all regulated areas may also be obtained by request from any local PPQ office; local offices are listed in telephone directories and on the internet at www.aphis.usda.gov/aphis/ourfocus/planthealth/ppq-program-overview/sphd. After a change is made to the list of regulated areas, APHIS will publish a notice in the *Federal Register* informing the public that the change has occurred and describing the change to the regulated areas. Less than an entire quarantined State will be designated as a regulated area only if the Deputy Administrator determines that:

(1) The State has adopted and is enforcing a quarantine which imposes restrictions on the intrastate movement of the regulated articles which are substantially the same as those which are imposed with respect to the interstate movement of such articles under this subpart; and

(2) The designation of less than the entire State as a regulated area will otherwise be adequate to prevent the interstate spread of witchweed.

(b) *Temporary designation of regulated areas and suppressive or generally infested areas.* The Deputy Administrator or an authorized inspector may temporarily designate any other premises in a quarantined State as a regulated area and may designate the regulated area or portions thereof as a suppressive or generally infested area, in accordance with the criteria specified in paragraph (a) of this section for designating such area, by serving written notice thereof on the owner or person in possession of such premises, and thereafter the interstate movement of regulated articles from such premises by any person having notice of the designation shall be subject to the applicable provisions of this subpart. As soon as practicable, such premises shall be added to the regulated areas list.

(c) *Termination of designation as a regulated area and a suppressive or generally infested area.* The Deputy Administrator shall terminate the designation provided for under

paragraph (a) of this section of any area designated as a regulated area, or a suppressive or a generally infested area within a regulated area, when the Deputy Administrator determines that such designation is no longer required under the criteria specified in paragraph (a) of this section. Notification of this change in the list of regulated areas, or suppressive or generally infested areas within a regulated area, will be made in accordance with the process set forth in paragraph (a) of this section. The Deputy Administrator or an inspector shall terminate the designation provided for under paragraph (b) of this section of any premises designated as a regulated area or a suppressive or a generally infested area when the Deputy Administrator determines that such designation is no longer required under the criteria specified in paragraph (a) of this section, and notice thereof shall be given to the owner or person in possession of the premises.

(d) *Exemption of articles from certification, permit, or other requirements.* The Deputy Administrator may determine that a regulated article has been produced, processed, cleaned, or otherwise handled in a manner that is sufficient to allow the article to move interstate without hazard of spread of witchweed, provided that the article is not exposed to infestation after production, processing, cleaning, or other handling. The Deputy Administrator may also determine that a regulated article's intended use is such that it may be moved interstate without hazard of spread of witchweed. Such articles are exempt from the restrictions of this subpart. The list of regulated articles at www.aphis.usda.gov/aphis/ourfocus/planthealth/plant-pest-and-disease-programs/pests-and-diseases/SA_Weeds/SA_Noxious_Weeds_Program is annotated to indicate these exemptions.

§ 301.80-2a [Removed and Reserved]

54. Section 301.80-2a is removed and reserved.

§ 301.80-2b [Removed and Reserved]

55. Section 301.80-2b is removed and reserved.

56. Section 301.80-3 is amended as follows:

a. In the section heading, by redesignating footnote 3 as footnote 1;

b. In paragraph (a)(2)(i), by removing the words “§ 301.80-2b which exempts” and adding the words “§ 301.80-2 which exempt” in their place;

c. In paragraph (a)(3)(ii)(A), by removing the citation “§ 301.80-2b” and adding the citation “§ 301.80-2” in its place; and

d. In paragraph (b), by removing the words “and so listed by him in a supplemental regulation” in the first sentence, redesignating footnote 4 as footnote 2, revising newly designated footnote 2, and removing footnote 5.

The revision reads as follows:

§ 301.80-3 Conditions governing the interstate movement of regulated articles from quarantined States.¹

* * * * *

¹Requirements under all other applicable Federal domestic plant quarantines must also be met.

²Provisions for laboratory approval may be obtained from your State’s State Plant Health Director. Contact information can be found at www.aphis.usda.gov/aphis/ourfocus/planthealth/ppq-program-overview/CT_SPHD.

57. Sections 301.81-2 and 301.81-3 are revised to read as follows:

§ 301.81-2 Regulated articles.

(a) *List of regulated articles.* The Administrator has determined that certain articles present a risk of spread of the imported fire ant. A list of all such articles is found on the internet at www.aphis.usda.gov/aphis/ourfocus/planthealth/plant-pest-and-disease-programs/pests-and-diseases/imported-fire-ants/ct_imported_fire_ants. Lists of all regulated articles may also be obtained by request from any local Plant Protection and Quarantine (PPQ) office; local offices are listed in telephone directories and on the internet at www.aphis.usda.gov/aphis/ourfocus/planthealth/ppq-program-overview/sphd.

(b) *Normal process for designating additional regulated articles.* (1) If the Administrator determines that an article not already listed at www.aphis.usda.gov/aphis/ourfocus/planthealth/plant-pest-and-disease-programs/pests-and-diseases/imported-fire-ants/ct_imported_fire_ants

diseases/imported-fire-ants/ct_imported_fire_ants presents a risk of spread of the imported fire ant, APHIS will publish a notice in the *Federal Register* proposing to designate the article as a regulated article for imported fire ant. The notice will provide the basis for this determination, and will request public comment.

(2) If no comments are received on the notice, or if the comments do not change the Administrator's determination, APHIS will publish a second notice in the *Federal Register* designating the article as a regulated article for the imported fire ant and listing it.

(c) *Immediate designation of regulated articles.* An inspector may designate any other article or means of conveyance as a regulated article if the inspector determines that it presents a risk of spread of the imported fire ant due to its proximity to an infestation of the imported fire ant, and after the inspector provides notification to the person in possession of the article or means of conveyance that it is now regulated under this subpart.

§ 301.81-3 Quarantined areas.

(a) Except as otherwise provided in paragraph (b) of this section, the Administrator will list as a quarantined area each State or portion of a State determined to be infested with the imported fire ant. The Administrator will also list as a quarantined area an area that is uninfested but determined to be in proximity to an infestation or that is determined to be inseparable from an infested locality for quarantine purposes; such a determination will be based on projections of spread of imported fire ant around the periphery of the infestation, as determined by previous years' surveys; availability of natural habitats and host materials, within the uninfested acreage, suitable for establishment and survival of imported fire ant populations; and the necessity of including uninfested acreage within the quarantined area in order to establish readily identifiable boundaries. The Administrator will publish a list of all quarantined areas (the quarantine list) on the PPQ website at www.aphis.usda.gov/aphis/ourfocus/planthealth/plant-pest-and-disease-programs/pests-and-diseases/imported-fire-ants/ct_imported_fire_ants. The list will include the date that the list was last updated. Lists of all quarantined areas may also be obtained by request

from any local PPQ office; local offices are listed in telephone directories and on the internet at www.aphis.usda.gov/aphis/ourfocus/planthealth/ppq-program-overview/sphd. After a change is made to the list of quarantined areas, APHIS will publish a notice in the *Federal Register* informing the public that the change has occurred and describing the change to the quarantined areas. Less than an entire State will be designated as a quarantined area only if the Administrator determines that:

(1) The State has adopted and is enforcing restrictions on the intrastate movement of the regulated articles that are equivalent to the interstate movement restrictions imposed by this subpart; and

(2) Designating less than the entire State as a quarantined area will prevent the spread of the imported fire ant.

(b) The Administrator or an inspector may temporarily designate any nonquarantined area as a quarantined area in accordance with the criteria specified in paragraph (a) of this section. The Administrator will give written notice of this designation to the owner or person in possession of the nonquarantined area, or, in the case of publicly owned land, to the person responsible for the management of the nonquarantined area; thereafter, the interstate movement of any regulated article from an area temporarily designated as a quarantined area is subject to this subpart. As soon as practicable, this area either will be added to the quarantine list, or the Administrator will terminate the designation. The owner or person in possession of, or, in the case of publicly owned land, the person responsible for the management of, an area for which the designation is terminated will be given written notice of the termination as soon as practicable.

58. Section 301.81-4 is amended as follows:

- a. In paragraph (a)(1), by removing the words “of this subpart”; and
- b. In paragraph (a)(3), by redesignating footnote 3 as footnote 1 and revising newly redesignated footnote 1.

The revision reads as follows:

§ 301.81-4 Interstate movement of regulated articles from quarantined areas.

* * * * *

¹ Provisions for laboratory approval may be obtained from your State's State Plant Health Director. Contact information can be found at www.aphis.usda.gov/aphis/ourfocus/planthealth/ppq-program-overview/CT_SPHD.

§ 301.81-5 [Amended]

59. Section 301.81-5 is amended as follows:

- a. In paragraph (a) introductory text, by redesignating footnote 4 as footnote 1;
- b. In paragraph (a)(2), by redesignating footnote 5 as footnote 2; and
- c. In paragraph (c), by removing the words "of this subpart" in the first sentence.

§ 301.81-6 [Amended]

60. Section 301.81-6 is amended by redesignating footnote 6 as footnote 1.

61. Section 301.81-8 is amended in paragraph (a) by redesignating footnote 7 as footnote 1 and revising newly redesignated footnote 1 as follows:

§ 301.81-8 Assembly and inspection of regulated articles.

* * * * *

¹ See footnote 1 of § 301.81-5(a).

62. Section 301.85 is revised to read as follows:

§ 301.85 Quarantine; restriction on interstate movement of specified regulated articles.

(a) *Notice of quarantine.* Under the authority of sections 411, 412, 414, and 434 of the Plant Protection Act (7 U.S.C. 7711, 7712, 7714, and 7754), the Secretary of Agriculture quarantines the State of New York in order to prevent the spread of the golden nematode (*Globodera rostochiensis*), which causes a dangerous disease of potatoes and certain other plants and is not widely prevalent or distributed within and throughout the United States. Through the aforementioned authorities, the Secretary imposes a quarantine on the State of New York with respect to the interstate movement from that State of regulated articles, issues regulations in this subpart governing the movement of such articles, and gives notice of this quarantine action.

(b) *Quarantine restrictions on the interstate movement of regulated articles.* No common carrier or other person shall move interstate from any quarantined State any regulated articles, except in accordance with the conditions prescribed in this subpart.

(c) *List of regulated articles.* The Deputy Administrator has determined that certain articles present a hazard of spread of golden nematodes. A list of all such regulated articles is found on the internet at www.aphis.usda.gov/aphis/ourfocus/planthealth/plant-pest-and-disease-programs/pests-and-diseases/golden-nematode/nematodes. Lists of all regulated articles may also be obtained by request from any local PPQ office; local offices are listed in telephone directories and on the internet at www.aphis.usda.gov/aphis/ourfocus/planthealth/ppq-program-overview/sphd.

(d) *Normal process for designating additional regulated articles.* (1) If the Deputy Administrator determines that an article not already listed at www.aphis.usda.gov/aphis/ourfocus/planthealth/plant-pest-and-disease-programs/pests-and-diseases/golden-nematode/nematodes presents a hazard of spread of golden nematodes, APHIS will publish a notice in the *Federal Register* proposing to designate the article as a regulated article for golden nematode. The notice will provide the basis for this determination, and will request public comment.

(2) If no comments are received on the notice, or if the comments do not change the Deputy Administrator's determination, APHIS will publish a second notice in the *Federal Register* designating the article as a regulated article for golden nematode and listing it.

(e) *Immediate designation of regulated articles.* An inspector may designate any other article, product, or means of conveyance as a regulated article, if the inspector determines that it presents a hazard of spread of golden nematodes, and after the person in possession of the article has been so notified.

63. Section 301.85-1 is amended by revising the definitions for "Generally infested area", "Regulated area", "Regulated article", and "Suppressive area" as follows:

§ 301.85-1 Definitions.

* * * * *

Generally infested area. Any part of a regulated area not designated as a suppressive area.

* * * * *

Regulated area. Any quarantined State, or any portion thereof, listed as a regulated area in accordance with § 301.85-2.

Regulated article. Any article identified as a regulated article under § 301.85 as follows: listed as of [EFFECTIVE DATE OF FINAL RULE], added in accordance with § 301.85(d), or otherwise designated in accordance with § 301.85(e).

* * * * *

Suppressive area. That portion of a regulated area where eradication of infestation is undertaken as an objective.

64. Section 301.85-2 is revised to read as follows:

§ 301.85-2 Authorization for the Deputy Administrator to list regulated areas and suppressive or generally infested areas.

(a) *Criteria for designation and process for listing.* The Deputy Administrator will list as a regulated area each State or portion of a State in which golden nematode has been determined to be found or in which there is reason to believe that golden nematode is present, or which it is deemed necessary to regulate because of their proximity to infestation or their inseparability for quarantine enforcement purposes from infested localities. The Deputy Administrator may divide any regulated area into a suppressive area and a generally infested area in accordance with the definitions of these terms in § 301.85-1. The Deputy Administrator will publish a list of all regulated areas, including the suppressive and generally infested areas therein, at www.aphis.usda.gov/aphis/ourfocus/planthealth/plant-pest-and-disease-programs/pests-and-diseases/golden-nematode/nematodes. The list will include the date that the list was last

updated. Lists of all regulated areas, including the suppressive and generally infested areas therein, may also be obtained by request from any local Plant Protection and Quarantine office; local offices are listed in telephone directories and on the internet at www.aphis.usda.gov/aphis/ourfocus/planthealth/ppq-program-overview/sphd. After a change is made to the list of regulated areas, APHIS will publish a notice in the *Federal Register* informing the public that the change has occurred and describing the change to the regulated areas. Less than an entire State will be designated as a regulated area only if the Deputy Administrator determines that:

(1) The State has adopted and is enforcing restrictions on the intrastate movement of regulated articles that are equivalent to those imposed by this subpart on the interstate movement of regulated articles; and

(2) The designation of less than an entire State as a regulated area will be adequate to prevent the interstate spread of golden nematodes.

(b) *Temporary designation of regulated areas and suppressive or generally infested areas.* The Deputy Administrator or an authorized inspector may temporarily designate any other premises in a quarantined State as a regulated area and a suppressive or generally infested area, in accordance with the criteria specified in paragraph (a) of this section for listing such area, by serving written notice thereof on the owner or person in possession of such premises, and thereafter the interstate movement of regulated articles from such premises by any person having notice of the designation shall be subject to the applicable provisions of this subpart. As soon as practicable, such premises shall be added to the list of regulated areas if a basis then exists for their designation; otherwise the designation shall be terminated by the Deputy Administrator or an authorized inspector and notice thereof shall be given to the owner or person in possession of the premises.

(c) *Termination of designation as a regulated area and a suppressive or generally infested area.* The Deputy Administrator shall terminate the designation provided for under

paragraph (a) of this section of any area listed as a regulated area and suppressive or generally infested area when he or she determines that such designation is no longer required under the criteria specified in paragraph (a) of this section.

(d) *Exemption of articles from certification, permit, or other requirements.* The Deputy Administrator may determine that a regulated article has been produced, processed, cleaned, or otherwise handled in a manner that is sufficient to allow the article to move interstate without hazard of spread of golden nematodes, provided that the article is not exposed to infestation after production, processing, cleaning, or other handling. The Deputy Administrator may also determine that a regulated article's intended use is such that it may be moved interstate without hazard of spread of golden nematodes. Such articles are exempt from the restrictions of this subpart. The list of regulated articles at www.aphis.usda.gov/aphis/ourfocus/planthealth/plant-pest-and-disease-programs/pests-and-diseases/golden-nematode/nematodes is annotated to indicate these exemptions.

§ 301.85-2a [Removed and Reserved]

65. Section 301.85-2a is removed and reserved.

§ 301.85-2b [Removed and Reserved]

66. Section 301.85-2b is removed and reserved.

67. Section 301.85-3 is amended as follows:

- a. In the section heading, by redesignating footnote 2 as footnote 1;
- b. In paragraph (a)(2)(i), by removing the citation “§ 301.85-2b” and adding the citation “§ 301.85-2(d)” in its place;
- c. By revising paragraph (a)(3)(ii); and
- d. In paragraph (b), by removing the words “and so listed by him in a supplemental regulation” in the first sentence, redesignating footnote 3 as footnote 2, revising newly redesignated footnote 2, and removing footnote 4;

The revisions read as follows:

§ 301.85-3 Conditions governing the interstate movement of regulated articles from quarantined States.¹

(a) * * *

(3) * * *

(ii) Without a certificate or permit, if:

(A) The regulated articles are exempt from certification and permit requirements under the provisions of § 301.85-2(d); or

(B) The point of origin of such movement is clearly indicated on the articles or shipping document which accompanies the articles and if the movement is not made through any regulated area.

* * * * *

¹Requirements under all other applicable Federal domestic plant quarantines must also be met.

²Provisions for laboratory approval may be obtained from your State's State Plant Health Director. Contact information can be found at www.aphis.usda.gov/aphis/ourfocus/planthealth/ppq-program-overview/CT_SPHD.

§ 301.86-2 [Amended]

68. Section 301.86-2 is amended in paragraph (a) by redesignating footnote 2 as footnote 1.

69. Section 301.86-5 is amended as follows:

a. In paragraph (a), by redesignating footnote 3 as footnote 1;

b. In paragraph (a)(1), by redesignating footnote 4 as footnote 2; and

c. In paragraph (b)(1), by redesignating footnote 5 as footnote 3 and revising newly redesignated footnote 3.

The revision reads as follows:

§ 301.86-5 Issuance and cancellation of certificates and limited permits.

* * * * *

³See footnote 1 of this section.

§ 301.86-6 [Amended]

70. Section 301.86-6 is amended in paragraph (a) by redesignating footnote 6 as footnote 1.

71. Section 301.86-7 is amended in paragraph (a) by redesignating footnote 7 as footnote 1 and revising newly redesignated footnote 1 to read as follows:

§ 301.86-7 Assembly and inspection of regulated articles.

* * * * *

¹See footnote 1 in § 301.86-5.

72. Section 301.87 is amended by revising paragraph (a) to read as follows:

§ 301.87 Quarantine; restrictions on interstate movement of specified articles.^{1, 2}

(a) *Notice of quarantine.* Under the authority of sections 411, 412, 414, and 434 of the Plant Protection Act (7 U.S.C. 7711, 7712, 7714, and 7754), the Secretary of Agriculture establishes quarantines within the United States to prevent the artificial spread of leaf scald disease and gummosis disease. The regulations in this subpart govern the interstate movement from regulated areas of regulated articles.

* * * * *

¹Any inspector is authorized to stop and inspect persons and means of conveyance, and to hold, seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of plants, plant pests, or other articles in accordance with sections 414, 421, and 434 of the Plant Protection Act (7 U.S.C. 7714, 7731, and 7754).

²Regulations concerning the movement of gummosis bacteria and leaf scald bacteria in commerce are contained in part 330 of this chapter.

73. Section 301.87-1 is amended as follows:

a. In the definitions for “Certificate” and “Limited permit”, by removing the words “of this subpart”; and

b. By revising the definitions for “Regulated area” and “Regulated article”.

The revisions read as follows:

§ 301.87-1 Definitions.

* * * * *

Regulated area. Any quarantined State, or any portion thereof, listed as a regulated area in accordance with § 301.87-3, or otherwise designated as a regulated area in accordance with § 301.87-3(b).

Regulated article. Any article identified as a regulated article under § 301.87-2 as follows: listed as of [EFFECTIVE DATE OF FINAL RULE], added in accordance with § 301.87-2(b), or otherwise designated in accordance with § 301.87-2(c).

* * * * *

74. Sections 301.87-2 and 301.87-3 are revised to read as follows:

§ 301.87-2 Regulated articles.

(a) *List of regulated articles.* The Deputy Administrator has determined that certain articles present a risk of spread of sugarcane diseases. A list of all such articles is found on the internet at www.aphis.usda.gov/aphis/ourfocus/planthealth/plant-pest-and-disease-programs/pests-and-diseases/plant-disease/sugarcane. Lists of all regulated articles may also be obtained by request from any local Plant Protection and Quarantine (PPQ) office; local offices are listed in telephone directories and on the internet at www.aphis.usda.gov/aphis/ourfocus/planthealth/ppq-program-overview/sphd.

(b) *Normal process for designating additional regulated articles.* (1) If the Deputy Administrator determines that an article not already listed at www.aphis.usda.gov/aphis/ourfocus/planthealth/plant-pest-and-disease-programs/pests-and-diseases/plant-disease/sugarcane presents a risk of spread of sugarcane diseases, APHIS will publish a notice in the *Federal Register* proposing to designate the article as a regulated article for sugarcane diseases. The notice will provide the basis for this determination, and will request public comment.

(2) If no comments are received on the notice, or if the comments do not change the Deputy Administrator's determination, APHIS will publish a second notice in the *Federal Register* designating the article as a regulated article for sugarcane diseases and listing it.

(c) *Immediate designation of regulated articles.* Any other article, product, or means of conveyance not already listed in accordance with paragraph (a) of this section may be designated a regulated article on an immediate basis if an inspector determines that it presents a risk of spread of sugarcane diseases and provides actual notification to the person in possession of the article, product, or means of conveyance that it is now subject to the restrictions of this subpart.

§ 301.87-3 Regulated areas.

(a) Except as otherwise provided in paragraph (b) of this section, the Deputy Administrator will list as a regulated area each State or portion of a State in which a sugarcane disease has been found by an inspector, or in which the Deputy Administrator has reason to believe a sugarcane disease is present, or that the Deputy Administrator deems necessary to regulate based on its proximity to a sugarcane disease or its inseparability for enforcement purposes from localities where a sugarcane disease occurs. The Deputy Administrator will publish a list of all regulated areas (the regulated areas list) on the PPQ website at www.aphis.usda.gov/aphis/ourfocus/planthealth/plant-pest-and-disease-programs/pests-and-diseases/plant-disease/sugarcane. The list will include the date that the list was last updated. Lists of all quarantined areas may also be obtained by request from any local PPQ office; local offices are listed in telephone directories and on the internet at www.aphis.usda.gov/aphis/ourfocus/planthealth/ppq-program-overview/sphd. After a change is made to the list of regulated areas, APHIS will publish a notice in the *Federal Register* informing the public that the change has occurred and describing the change to regulated areas. Less than an entire State will be designated as a regulated area only if the Administrator determines that:

(1) The State has adopted and is enforcing restrictions on the intrastate movement of regulated articles that are substantially the same as those that are imposed by this subpart on the interstate movement of regulated articles; and

(2) The designation of less than the entire State as a regulated area will be adequate to

prevent the artificial interstate spread of a sugarcane disease.

(b) The Deputy Administrator or an inspector may temporarily designate any nonregulated area as a regulated area in accordance with the criteria specified in paragraph (a) of this section for listing such an area. Written notice of the designation will be given to the owner or person in possession of the nonregulated area. Thereafter, the interstate movement of any regulated article from the area will be subject to this subpart. As soon as practicable, the area will either be added to the regulated areas list, or the Deputy Administrator or an inspector will terminate the designation. Notice thereof will be given the owner or person in possession of the area.

§ 301.87-4 [Amended]

75. Section 301.87-4 is amended as follows:

- a. In the section heading, by redesignating footnote 3 as footnote 1; and
- b. In paragraph (a), by removing the words “of this subpart”.

§ 301.87-5 [Amended]

76. Section 301.87-5 is amended as follows:

- a. In paragraph (a)(1)(i), by redesignating footnote 4 as footnote 1;
- b. In paragraph (a)(1)(ii) by redesignating footnote 5 as footnote 2;
- c. In paragraph, (a)(2), by redesignating footnote 6 as footnote 3; and
- d. In paragraph (c), by removing the words “of this subpart” in the second sentence.

§ 301.87-6 [Amended]

77. Section 301.87-6 is amended in paragraph (a) by redesignating footnote 7 as footnote 1.

§ 301.87-7 [Amended]

78. Section 301.87-7 is amended in paragraph (a) by removing the words “of this subpart”, and redesignating footnote 8 as footnote 1.

79. Sections 301.89-2 and 301.89-3 are revised to read as follows:

§ 301.89-2 Regulated articles.

(a) *List of regulated articles.* The Administrator has determined that certain articles present a risk of spreading Karnal bunt. A list of all such articles is found on the internet at www.aphis.usda.gov/aphis/ourfocus/planthealth/plant-pest-and-disease-programs/pests-and-diseases/karnal-bunt/ct_karnal_bunt. Lists of all regulated articles may also be obtained by request from any local Plant Protection and Quarantine (PPQ) office; local offices are listed in telephone directories and on the internet at www.aphis.usda.gov/aphis/ourfocus/planthealth/ppq-program-overview/sphd.

(b) *Normal process for designating additional regulated articles.* (1) If the Administrator determines that an article not already listed presents a risk of spreading Karnal bunt, APHIS will publish a notice in the *Federal Register* proposing to designate the article as a regulated article for Karnal bunt. The notice will provide the basis for this determination, and will request public comment.

(2) If no comments are received on the notice, or if the comments do not change the Administrator's determination, APHIS will publish a second notice in the *Federal Register* designating the article as a regulated article for Karnal bunt and listing it.

(c) *Immediate designation of regulated articles.* Any other article, product, or means of conveyance not already listed in accordance with paragraph (a) of this section may be designated a regulated article on an immediate basis if an inspector determines that it presents a risk of spreading Karnal bunt, and notifies the person in possession of the article, product, or means of conveyance that it is now subject to the restrictions of this subpart.

§ 301.89-3 Regulated areas.

(a) *Designation.* Except as otherwise provided in paragraph (b) of this section, the Administrator will list as a regulated area each State or portion of a State if it is determined to be infected with Karnal bunt or if it is in proximity to an infestation or inseparable from the infected locality for regulatory purposes based on the following: Projections of the spread of Karnal bunt

along the periphery of the infestation, the availability of natural habitats and host materials within the noninfected acreage that are suitable for establishment and survival of Karnal bunt, and the necessity of including uninfected acreage within the regulated area in order to establish readily identifiable boundaries. The Administrator will publish a list of all regulated areas (the regulated areas list) on the PPQ website at www.aphis.usda.gov/aphis/ourfocus/planthealth/plant-pest-and-disease-programs/pests-and-diseases/karnal-bunt/ct_karnal_bunt. The list will include the date that the list was last updated. Lists of all regulated areas may also be obtained by request from any local PPQ office; local offices are listed in telephone directories and on the internet at www.aphis.usda.gov/aphis/ourfocus/planthealth/ppq-program-overview/sphd. After a change is made to the list of regulated areas, APHIS will publish a notice in the *Federal Register* informing the public that the change has occurred and describing the change to regulated areas.

(b) *Designation of less than an entire State as a regulated area.* Less than an entire State will be designated as a regulated area only if the Administrator:

(1)(i) Determines that the State has adopted and is enforcing restrictions on the intrastate movement of the regulated articles that are equivalent to the movement restrictions imposed by this subpart; and

(ii) Determines that designating less than the entire State as a regulated area will prevent the spread of Karnal bunt; or

(2) Exercises his or her extraordinary emergency authority under 7 U.S.C. 7715.

(c) *Temporary designation of regulated areas.* The Administrator or an inspector may temporarily designate any nonregulated area as a regulated area in accordance with the criteria specified in paragraph (a) or (b) of this section. The Administrator will give written notice of this designation to the owner or person in possession of the nonregulated area, or, in the case of publicly owned land, to the person responsible for the management of the nonregulated area. Thereafter, the movement of any regulated article from an area temporarily designated as a

regulated area is subject to this subpart. As soon as practicable, this area either will be added to the regulated areas list, or the Administrator will terminate the designation. The owner or person in possession of, or, in the case of publicly owned land, the person responsible for the management of, an area for which the designation is terminated will be given written notice of the termination as soon as practicable.

(d) *Regulated fields.* The Administrator will classify a field or area as a regulated area when:

(1) It is a field planted with seed from a lot found to contain a bunted wheat kernel; or

(2) It is a distinct definable area that contains at least one field that was found during survey to contain a bunted wheat kernel (the distinct definable area may include an area where Karnal bunt is not known to exist but where intensive surveys are required because of the area's proximity to a field found during survey to contain a bunted kernel); or

(3) It is a distinct definable area that contains at least one field that has been determined to be associated with grain at a handling facility containing a bunted kernel of a host crop (the distinct definable area may include an area where Karnal bunt is not known to exist but where intensive surveys are required because of the area's proximity to the field associated with the bunted kernel at the handling facility).

(e) *Release from regulation.* A field known to have been infected with Karnal bunt, as well as any non-infected acreage surrounding the field, will be released from regulation if:

(1) The field has been permanently removed from crop production; or

(2) The field is tilled at least once per year for a total of 5 years (the years need not be consecutive). After tilling, the field may be planted with a crop or left fallow. If the field is planted with a host crop, the crop must test negative, through the absence of bunted kernels, for Karnal bunt.

§ 301.89-7 [Amended]

80. Section 301.89-7 is amended by redesignating footnote 3 as footnote 1.

81. Section 301.89-9 is amended in paragraph (a) by redesignating footnote 4 as footnote 1 and revising newly redesignated footnote 1 to read as follows:

§ 301.89-9 Assembly and inspection of regulated articles.

* * * * *

¹See footnote 1 in § 301.89-6.

82. Section 301.91 is amended by revising paragraph (a) to read as follows:

§ 301.91 Quarantine and regulations; restrictions on interstate movement of regulated articles.¹

(a) *Notice of quarantine.* Under the authority of sections 411, 412, 414, and 434 of the Plant Protection Act (7 U.S.C. 7711, 7712, 7714, and 7754), the Secretary of Agriculture establishes a quarantine within the United States to prevent the artificial spread of European larch canker (*Lachnellula willkommi* (Dasyscypha)). The regulations in this subpart govern the interstate movement from regulated areas of regulated articles.

* * * * *

¹Any properly identified inspector is authorized to stop and inspect persons and means of conveyance, and to seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of regulated articles as provided in sections 414, 421, and 434 of the Plant Protection Act (7 U.S.C. 7714, 7731, and 7754).

83. Section 301.91-1 is amended by revising the definitions for “Regulated area” and “Regulated article” to read as follows:

§ 301.91-1 Definitions.

* * * * *

Regulated area. Any State, or any portion thereof, listed in accordance with § 301.91-3.

Regulated article. Any article identified as a regulated article under § 301.91-2 as follows: listed as of [EFFECTIVE DATE OF FINAL RULE], added in accordance with § 301.91-2(b), or otherwise designated in accordance with § 301.91-2(c).

* * * * *

84. Sections 301.91-2 and 301.91-3 are revised to read as follows:

§ 301.91-2 Regulated articles.

(a) *List of regulated articles.* The Deputy Administrator has determined that certain articles present a risk of spreading European larch canker. A list of all such regulated articles is found on the internet at www.aphis.usda.gov/aphis/ourfocus/planthealth/plant-pest-and-disease-programs/pests-and-diseases/plant-disease/elc/european-larch-canker. Lists of all regulated articles may also be obtained by request from any local Plant Protection and Quarantine (PPQ) office; local offices are listed in telephone directories and on the internet at www.aphis.usda.gov/aphis/ourfocus/planthealth/ppq-program-overview/sphd.

(b) *Normal process for designating additional regulated articles.* (1) If the Deputy Administrator determines that an article not already listed at www.aphis.usda.gov/aphis/ourfocus/planthealth/plant-pest-and-disease-programs/pests-and-diseases/plant-disease/elc/european-larch-canker presents a risk of spreading European larch canker, APHIS will publish a notice in the *Federal Register* proposing to designate the article as a regulated article for European larch canker. The notice will provide the basis for this determination, and will request public comment.

(2) If no comments are received on the notice, or if the comments do not change the Deputy Administrator's determination, APHIS will publish a second notice in the *Federal Register* designating the article as a regulated article for European larch canker and listing it.

(c) *Immediate designation of regulated articles.* An inspector may designate any other product, article, or means of conveyance as a regulated article for European larch canker, if the inspector determines that it presents a risk of spreading European larch canker, and after the inspector provides actual notification to the person in possession of the product, article, or means of conveyance that it is subject to the restrictions of this subpart.

§ 301.91-3 Regulated areas.

(a) Except as otherwise provided in paragraph (b) of this section, the Deputy Administrator will list as a regulated area each State, or each portion of a State, in which

European larch canker has been found by an inspector, or in which the Deputy Administrator has reason to believe that European larch canker is present, or any portion of a quarantined State which the Deputy Administrator deems necessary to regulate because of its proximity to a European larch canker infestation or its inseparability for quarantine enforcement purpose from localities in which European larch canker occurs. The Deputy Administrator will publish a list of all regulated areas (the regulated areas list) on the PPQ website at www.aphis.usda.gov/aphis/ourfocus/planthealth/plant-pest-and-disease-programs/pests-and-diseases/plant-disease/elc/european-larch-canker. The list will include the date that the list was last updated. Lists of all regulated areas may also be obtained by request from any local PPQ office; local offices are listed in telephone directories and on the internet at www.aphis.usda.gov/aphis/ourfocus/planthealth/ppq-program-overview/sphd. After a change is made to the list of regulated areas, APHIS will publish a notice in the *Federal Register* informing the public that the change has occurred and describing the change to the regulated areas. Less than an entire quarantined State will be designated as a regulated area only if the Deputy Administrator determines that:

(1) The State has adopted and is enforcing a quarantine or regulation which imposes restrictions on the intrastate movement of the regulated articles which are substantially the same as those which are imposed with respect to the interstate movement of such articles under this subpart; and

(2) The designation of less than the entire State as a regulated area will otherwise be adequate to prevent the artificial interstate spread of European larch canker.

(b) The Deputy Administrator or an inspector may temporarily designate any nonregulated area in a quarantined State as a regulated area in accordance with the criteria specified in paragraph (a) of this section. The Deputy Administrator will give a copy of this regulation along with written notice of the temporary designation to the owner or person in possession of the nonregulated area, or, in the case of publicly owned land, to the person

responsible for the management of the nonregulated area. Thereafter, the interstate movement of any regulated article from an area temporarily designated as a regulated area will be subject to this subpart. As soon as practicable, the area will be added to the regulated areas list or the designation will be terminated by the Deputy Administrator or an inspector. The owner or person in possession of, or, in the case of publicly owned land, the person responsible for the management of, an area for which designation is terminated will be given written notice of the termination as soon as practicable.

§ 301.91-4 [Amended]

85. Section 301.91-4 is amended as follows:

- a. In the section heading, by redesignating footnote 2 as footnote 1; and
- b. In paragraph (a), by removing the words “of this subpart”.

§ 301.91-5 [Amended]

86. Section 301.91-5 is amended in paragraph (b)(2) by redesignating footnote 3 as footnote 1.

§ 301.91-6 [Amended]

87. Section 301.91-6 is amended in paragraph (a) by redesignating footnote 4 as footnote 1.

§ 301.91-7 [Amended]

88. Section 301.91-7 is amended in paragraph (a) by redesignating footnote 5 as footnote 1.

89. Section 301.92-1 is amended as follows:

- a. In the definition for “Non-host nursery stock”, by adding the words “accordance with” after the word “in”;
- b. In the definition of “Nursery stock”, by redesignating footnote 2 as footnote 1 and revising the newly redesignated footnote 1;
- c. By revising the definition for “Quarantined area”; and

d. In the definitions for “Regulated article” and “Restricted article”, by removing the words “of this subpart”.

The revisions read as follows:

§ 301.92-1 Definitions.

* * * * *

Quarantined area. Any State, or any portion of a State, designated as a quarantined area in accordance with § 301.92-3.

* * * * *

¹ Bulbs, tubers, corms, or rhizomes are only considered nursery stock (and therefore, regulated under this subpart) if they are of plant taxa listed in accordance with § 301.92-2 as regulated articles or associated articles.

90. Section 301.92-2 is amended as follows:

a. In paragraph (a)(1), by adding the words “accordance with” after the words “listed in” and removing footnote 3;

b. In paragraph (a)(2), by adding the words “accordance with” after the words “listed in”;

c. In paragraph (b)(1), by adding the words “accordance with” after the words “listed in” and removing footnote 4;

d. In paragraph (c), by adding the words “accordance with” after the words “listed in”;
and

e. By revising paragraphs (d) and (e).

The revisions read as follows:

§ 301.92-2 Restricted, regulated, and associated articles; lists of proven hosts and associated plant taxa.

* * * * *

(d) *Proven host plant taxa.* The Administrator has determined that certain taxa of plants are proven hosts of *Phytophthora ramorum*. A list of all such proven host taxa is located on the

internet at www.aphis.usda.gov/aphis/ourfocus/planthealth/plant-pest-and-disease-programs/pests-and-diseases/phytophthora-ramorum/sod. Lists of all proven host taxa may also be obtained by request from any local Plant Protection and Quarantine (PPQ) office; local offices are listed in telephone directories and on the internet at www.aphis.usda.gov/aphis/ourfocus/planthealth/ppq-program-overview/sphd. If the Administrator determines that a taxon not already listed at www.aphis.usda.gov/aphis/ourfocus/planthealth/plant-pest-and-disease-programs/pests-and-diseases/phytophthora-ramorum/sod is a proven host of *Phytophthora ramorum*, APHIS will publish a notice in the *Federal Register* proposing to designate the taxon as a proven host of *Phytophthora ramorum*. The notice will provide the basis for this determination, and will request public comment. If no comments are received on the notice, or if the comments do not change the Administrator's determination, APHIS will publish a second notice in the *Federal Register* designating the taxon as a proven host of *Phytophthora ramorum* and listing it.

(e) *Associated plant taxa*. The Administrator has determined that certain plant taxa are associated with *Phytophthora ramorum*. A list of all such taxa is located on the internet at www.aphis.usda.gov/aphis/ourfocus/planthealth/plant-pest-and-disease-programs/pests-and-diseases/phytophthora-ramorum/sod. Lists of all associated taxa may also be obtained by request from any local PPQ office; local offices are listed in telephone directories and on the internet at www.aphis.usda.gov/aphis/ourfocus/planthealth/ppq-program-overview/sphd. If the Administrator determines that a taxon not already listed at www.aphis.usda.gov/aphis/ourfocus/planthealth/plant-pest-and-disease-programs/pests-and-diseases/phytophthora-ramorum/sod is associated with *Phytophthora ramorum*, APHIS will publish a notice in the *Federal Register* proposing to designate the taxon as associated with *Phytophthora ramorum*. The notice will provide the basis for this determination, and will request public comment. If no comments are received on the notice, or if the comments do not change the Administrator's determination, APHIS will publish a second notice in the *Federal*

Register designating the taxon as associated with *Phytophthora ramorum* and listing it.

91. Section 301.92-3 is amended by revising paragraph (a) to read as follows:

§ 301.92-3 Quarantined areas and regulated establishments.

(a) *Quarantined areas.* (1) Except as otherwise provided in paragraph (a)(2) of this section, the Administrator will designate as a quarantined area each State or portion of a State in which *Phytophthora ramorum* has been confirmed by an inspector to be established in the natural environment, in which the Administrator has reason to believe that *Phytophthora ramorum* is present in the natural environment, or that the Administrator considers it necessary to quarantine because of its inseparability for quarantine enforcement purposes from localities in which *Phytophthora ramorum* has been found in the natural environment. The Administrator will publish a list of all quarantined areas (the quarantine list) on the PPQ website at www.aphis.usda.gov/aphis/ourfocus/planthealth/plant-pest-and-disease-programs/pests-and-diseases/phytophthora-ramorum/sod. The list will include the date that the list was last updated. Lists of all quarantined areas may also be obtained by request from any local office of PPQ; local offices are listed in telephone directories and on the internet at www.aphis.usda.gov/aphis/ourfocus/planthealth/ppq-program-overview/sphd. After a change is made to the list of quarantined areas, APHIS will publish a notice in the *Federal Register* informing the public that the change has occurred and describing the change to the quarantined areas. Less than an entire State will be designated as a quarantined area only if the Administrator determines that:

(i) The State has adopted and is enforcing restrictions on the intrastate movement of regulated, restricted, and associated articles that are substantially the same as those imposed by this subpart on the interstate movement of regulated, restricted, and associated articles; and

(ii) The designation of less than the entire State as a quarantined area will prevent the interstate spread of *Phytophthora ramorum*.

(2) The Administrator or an inspector may temporarily designate any nonquarantined

area as a quarantined area in accordance with the criteria in paragraph (a)(1) of this section. The Administrator or the inspector will give a copy of this regulation along with a written notice for the temporary designation to the owner or person in possession of the nonquarantined area. Thereafter, the interstate movement of any regulated, restricted, or associated article from the area temporarily designated as a quarantined area will be subject to this subpart. As soon as practicable, this area will be added to the quarantine list or the designation will be terminated by the Administrator or an inspector. The owner or person in possession of an area for which designation is terminated will be given notice of the termination as soon as practicable.

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§ 301.92-4 [Amended]

92. Section 301.92-4 is amended as follows:

- a. In paragraph (a) introductory text, by redesignating footnote 5 as footnote 1;
- b. In paragraph (b) introductory text, by removing footnote 6;
- c. In paragraph (c)(2) introductory text, by adding the words “accordance with” after the words “listed in”; and
- d. In paragraph (c)(2)(ii)(B), by redesignating footnote 7 as footnote 2.

93. Section 301.92-5 is amended as follows:

- a. In paragraph (a), by redesignating footnotes 8 and 9 as footnotes 1 and 2, respectively;
- b. In paragraph (a)(1)(ii), redesignate footnote 10 as footnote 3 and revise newly redesignated footnote 3; and
- c. In paragraph (a)(1)(v), redesignate footnote 11 as footnote 4.

The revision reads as follows:

§ 301.92-5 Issuance and cancellation of certificates.

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³Firewood, logs, lumber of species listed in accordance with 301.92-2(d) and marked with an asterisk are not regulated articles, as noted in § 301.92-2(b)(1).

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§ 301.92-6 [Amended]

94. Section 301.92-6 is amended in paragraph (a) by redesignating footnote 12 as footnote 1.

95. Section 301.92-7 is amended by redesignating footnote 13 as footnote 1 and revising newly redesignated footnote 1 to read as follows:

§ 301.92-7 Availability of inspectors; assembly for inspection.

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¹See footnote 2 in § 301.92-4.

Done in Washington, DC, this 1st day of June 2022.

Anthony Shea,

Administrator,

Animal and Plant Health Inspection Service.

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